



DEPARTMENT OF FINANCE

INVITATION TO BID

November 13, 2024

BID TITLE: FUEL **BID #:** K00124
BID OPENING DATE: December 5, 2024 at 2:00 p.m.
DELIVERY DATE: As needed per notification by department.
BID BOND REQUIRED: No

The City of Staunton is seeking bids from qualified vendors to furnish fuels to the City during the next two (2) year period, beginning December 16, 2024, with three (3) possible one-year (1-year) renewals. Any questions regarding the specifications for this bid should be directed to David Stokes, Street/Traffic Engineering Superintendent, at (540) 332-3892 or at stokescd@ci.staunton.va.us.

Questions are due by no later than 4:00 p.m. November 21, 2024. Please quote lowest price and best delivery on items listed. Please advise what discount, if any will be allowed for payment within a specified time. Terms and delivery date must be specified.

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 the City of Staunton to the extent allowable by law.

The City does not discriminate against small and minority businesses or faith-based organizations. All bids must be submitted in a sealed envelope plainly marked, **Bid No. "K00124-FUEL"**, with the name and address of the bidder in the upper left-hand corner and accompanied by complete specifications for the items offered.

E-Mail and facsimile responses are not acceptable. No responsibility will attach to the City or any official or employee thereof for the pre-opening of, post-opening of, or the failure to open a proposal not properly addressed and identified.

BIDS RECEIVED AFTER THE DATE AND TIME SPECIFIED WILL BE REJECTED

BIDS MUST BE SEALED, MARKED, AND DELIVERED TO:

Mail To:

City of Staunton
Chad M. Horvat
Finance Business Manager
P.O. Box 58
Staunton, VA 24402-0058

Overnight To:

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

1) SUBMISSION AND RECEIPT OF BIDS:

- a) Bids, to receive consideration, must be received prior to the specified time and date of opening as designated in the invitation. E-mail and facsimile submittals are not acceptable.
- b) Unless otherwise specified, bidders must use the bid form furnished by the City. Failure to do so may cause bid to be rejected. Removal of any part of the bid form may invalidate the bid.
- c) All bids shall be either typewritten or filled in with ink in order to be considered. Also, all bids must be signed in ink in order to be considered.

2) ANNUAL CONTRACT USAGE REQUIREMENTS:

Whenever a bid is sought seeking a source of supply for an annual contract for products or services, the quantities or usage shown are estimates only. No guarantee or warranty is given or implied by the City of Staunton as to the total amount that may or may not be purchased from any resulting contracts.

3) PRICING:

- a) Bidder warrants by virtue of bidding that prices, terms, and conditions quoted in his bid will be firm for acceptance for a period of sixty (60) days from the date of bid opening unless otherwise stated by the City or bidder.
- b) Prices should be stated in units of quantity as specified in the bid form. In case of error in extension of prices in the bid, the unit price shall govern.

4) CASH DISCOUNTS:

Cash discounts will be considered in determining the award.

5) BRAND NAMES:

Unless otherwise provided in the invitation for bid, the name of a certain brand, make, or manufacturer does not restrict bidders to the specific brand, make, or manufacture mentioned; it conveys the general style, type, character, and quality of the equipment desired. The City shall determine in its sole discretion equipment bid to be equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

6) NOTICE OF AWARD:

Award will be made once all bids are reviewed and the lowest responsible and responsive bidder is identified, and all the processes to complete an agreement are finalized. Notice of award will be posted at <https://www.ci.staunton.va.us/departments/finance/procurement> and on the eVA procurement site.

7) BID SCHEDULE

Bid Posted	November 13, 2024
Questions & Answers Due	November 21, 2024, 4:00 p.m.
Q&A Addenda Posted	November 22, 2024 by 5:00 p.m.
Bids Due & Bid Opening	December 5, 2024 at 2:00 p.m.

UNLEADED GASOLINE AND DIESEL FUEL SPECIFICATIONS

- 1) Delivery for unleaded and ultra-low sulfur diesel fuel shall be made within 48 hours after telephone or email notification by City staff and to location specified by the City of Staunton.
- 2) Fuel deliveries will only be accepted between 7:30AM – 3:30PM Monday through Friday (except holidays or in emergency situations).
- 3) Quantities shown are estimated usage for a twelve (12) month period. These are not to be construed as commitment by the City to purchase these amounts. Usage is shown strictly for benefit of bidders.
- 4) Contractors are requested to supply pricing for ultra-low sulfur diesel additives as follows:
 - Lubrication additive to be included year-round. Additive to be used shall be Stanadyne Performance Formula Junior (#3149) or equal.
 - Anti-gel additive to be included during winter months only. Additive to be used shall be Power Service Premium, Arctic Express (#7055) or equal

Determination of equal product shall be at the sole discretion of the City of Staunton.
- 5) Bio-diesel shall not be acceptable due to the age of our tanks.
- 6) This bid is for on-road (clear) diesel only. No off-road (dyed) diesel.
- 7) Contractors shall include a biocide (an additive to prevent microbial activity) in the first load of ultra-low sulfur diesel fuel delivered and as requested thereafter.
- 8) Ethanol Blends:
 - Public Works Deliveries: Unleaded gasoline product may contain an ethanol blend of up to 10% for Public Works Deliveries.
 - Parks & Recreation Deliveries: Unleaded gasoline product may **not** contain ethanol.
- 9) QUALITY
 - a) All fuel to be delivered on any order, proceeding from proposals submitted on this bid, shall be free of foreign matter and impurities and shall be equal to or better in every way than the kind and grade certified in the originating bid. All grades of fuel must be homogenous at the time of delivery and remain so in normal storage. The City reserves the right to require the contractor to draw a sample of gasoline or diesel fuel from his delivery truck for submission to an independent laboratory for an analysis check at the City's expense. Any fuel not meeting specifications will not be acceptable to the City and must be removed from the tank at the Contractor's expense.
 - b) The City reserves the right to substitute fuel products and additive products at its discretion. If this requires vendor changing depots, pricing of freight would be mutually agreed upon.
 - c) No Contractor may substitute a fuel of lower grade than specified in the contract for any point of delivery without the written consent of the City.

- d) One (1) gallon of fuel shall be equal in volume to one (1) fluid gallon as defined by the United States Bureau of Standards.
 - e) Gasoline is unacceptable if it:
 - exceeds a vapor pressure of 9.0 pounds per square inch
 - contains more than 0.05 gram of lead per gallon;
 - contains more than 0.005 gram of phosphorus per gallon;
 - manganese or any compound of manganese has been added to the gasoline; or
 - f) Requirements regarding Federal/State regulations for the grades of gasoline such as “Oxygenated” and “Reformulated” shall be included with the bid.
- 10) In the event the successful bidder cannot provide the products they contract to supply, the City reserves the right to purchase same or equal product wherever available. The City will purchase fuel without being restricted to local area, at the best available prices as determined by an authorized agent of the City with successful bidder responsible for all costs incurred over and above contract price.
 - 11) The contractor shall make deliveries in a neat and business-like manner. The Contractor is responsible for clean-up of spills incidental to deliveries at his/her expense and to the satisfaction of the City. Contractor is responsible for all carrier claims.
 - 12) The City will not be responsible for injury or damage incurred during performance of this service and or contract. The Contractor shall file with the City certificates or policies of workmen’s compensation, public liability, automobile liability (including non-ownership and hired vehicle liability) and property damage insurance satisfactory to the City in compliance with the law in form and amount sufficient properly to protect the City. All insurance required by this agreement shall be and remain in full force and effect for the entire life of the contract. The City shall be named as an additional insured under such insurance contracts which shall contain a stipulation that the insurance contracts provided shall not terminate, lapse, or otherwise expire prior to thirty (30) days written notice to that effect given by the insurance carrier in advance of the termination to the City. Also, the insurance carrier will not invoke the defense of performance of a governmental function by the party of the first part in performing this contract to defeat liability or recovery under the insurance contract.
 - 13) Bidder shall furnish names and titles of all individuals in the company authorized to accept or offer changes to this contract.

Name _____	Name _____
Title _____	Title _____

- 14) Specify terminal from which requirements will be filled and on which bid is based.

Name _____

Address _____

Terminal Telephone Number _____

- 15) Vendor shall not furnish fuels from terminals other than that specified in bid unless the City is informed of and approves the change in writing prior to delivery. The City shall also be furnished information required in Specification #8 for any alternate supplies used during life of contract.
- 16) No firm fixed prices will be considered. Base unit price shall increase or decrease based on rack price at terminal specified above. Mark-up and freight shall be firm for contract.
- 17) Initial contract shall run for a two-year (2-year) period beginning December 16, 2024 and ending December 16, 2026. Contract shall be subject to renewal for no more than three (3) one-year (1-year) periods provided agreement on price adjustments are reached prior to expiration of contract.
- 18) Contract may be cancelled for cause by either party with written notice thirty (30) days prior to effective date.
- 19) Tanks sizes and locations are listed on Attachment A.
 - a) Average delivery sizes per site, per product are:
 - i) Public Works – 8,000 gallons (split Diesel / Unleaded)
 - ii) Parks & Recreation – 4,000 gallons (split Diesel / Unleaded)
 - b) The sum of annual gallons for all locations (based on FY2024 usage) was:
 - i) Diesel – 87,880 gallons
 - ii) Unleaded – 109,840 gallons
- 2) The City under contract resulting from this bid shall be considered priority accounts in the event of supply shortages occurring during life of the contract.
- 3) Any rebates, discounts, freight allowances, or other assistance received from supplier shall be fully disclosed in bid. If such pricing structure of assistance is not permanent, such information must be disclosed fully in bid. Failure to do so shall be considered grounds for termination of contract. If such information is to be held confidential it shall be clearly identified as such or it becomes public information after bids have been opened.
- 4) The successful bidder will be required to submit a bill of lading with each shipment of fuel to allow the City to identify the carrier.
- 5) The City of Staunton reserves the right to waive the bill of lading requirement, but also reserves the right to perform a test at selected times throughout the duration of the agreement in order to determine the octane percentage as well as additives to the fuels being supplied by successful bidder.
- 6) The successful bidder will be required to submit a copy of the bidder's invoice showing rack price with each shipment of fuel for price verification.

CITY OF STAUNTON

BID FORM

(A) Estimated Annual Qty	Specifications	(B) Mark-up Per Gal.	(C) Freight Per Gal.	(D) Total (B + C) Per Gal.	(E) Total (A x D)
	TANK WAGON				
7,000 Gallons	Ultra-Low Sulfur Diesel; #2/Combustible Liquid, NA 1993/PG11/Class	\$_____	\$_____	\$_____	\$_____
	Lubrication Additive - \$_____ per _____				
	Brand to be used: _____				
	Anti-Gel Additive - \$_____ per _____				
	Brand to be used: _____ See Specifications 4 and 5 for information on Additives				
	Indicate any rebate for volume purchase, etc. \$_____				
12,700 gallons	Gasoline Non-Ethanol, Unleaded 87 Octane	\$_____	\$_____	\$_____	\$_____
	Indicate any rebate for volume purchase, etc. \$_____				
	TRANSPORT TRUCK				
98,000 gallons	Gasoline E10, Unleaded 87 Octane	\$_____	\$_____	\$_____	\$_____
	Indicate any rebate for volume purchase, etc. \$_____				
81,000 gallons	Ultra-Low Sulfur Diesel; #2/Combustible Liquid NA 1993/PG11/Class	\$_____	\$_____	\$_____	\$_____
	Biocide Additive - \$_____ per _____				
	Lubrication Additive - \$_____ per _____				
	Brand to be used: _____ See Specifications 4 and 5 for information on Additives				
	Anti-Gel Additive - \$per				
	Indicate any rebate for volume purchase, etc. \$_____				

** Do not use percentages. For example, please quote .010 for one cent cost. Do not use more than four (4) decimal places (.0100).

PER ATTACHED SPECIFICATIONS

OFFER

To Purchasing Department:

In compliance with the bid information, the undersigned offers and agrees, if this offer is accepted within _____ calendar days (30 calendar days unless a different period is inserted by the purchaser) from the bid open date specified above, to furnish any or all items upon which prices are offered, at the price set opposite each item, delivered at the designated point(s), within the time specified.

Bidder guarantees shipment from _____ via _____ within _____ days after receipt of order.

FOB: _____ TERMS: _____

BIDDER/COMPANY NAME: _____

BY: _____

TYPED NAME OF BIDDER: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

FEDERAL ID NUMBER: _____ SCC NUMBER: _____

E-MAIL ADDRESS: _____

DATE: _____

PHONE: _____ FAX: _____

ATTACHMENT A

<u>Fuel Locations</u>	<u>Tank Size</u>
1. Public Works Site – Englewood Drive	
Unleaded	10,000 gal
Unleaded	10,000 gal
Diesel	10,000 gal
2. Buildings and Grounds – Gypsy Hill Park	
Unleaded (Non-Ethanol Only)	4,000 gal
Diesel	4,000 gal
3. Water Treatment Plant – Englewood Drive (Generator)	
Diesel (Note: Anti-gel additive in winter only/lubrication additive year-round)	500 gal
4. City Hall – 116 West Beverley Street (Generator)	
Diesel (Note: Anti-gel additive winter only / lubrication additive year-round)	250 gal
5. Public Works Facility – Englewood Drive (Generator)	
Diesel (Note: Anti-gel additive winter only/ lubrication additive year-round)	150 gal
6. Bell Creek Pump Station – 1826 Churchville Avenue (Generator)	
Diesel (Note: Anti-gel additive winter only/ lubrication additive year-round)	175 gal

PROCUREMENT GUIDELINES

1. SUBMISSION AND RECEIPT OF BIDS:

- 1.1. Bids, to receive consideration, must be received prior to the specified time and date of opening as designated in the invitation. E-mail and facsimile submittals are not acceptable.
- 1.2. Unless otherwise specified, bidders must use the bid form furnished by the City. Failure to do so may cause bid to be rejected. Removal of any part of the bid form may invalidate the bid.

2. BID SPECIFICATIONS

- 2.1. Bidders must indicate any variances from our specification and/or conditions, NO MATTER HOW SLIGHT. If variations are not stated in the bid, it will be assumed that the product or service fully complies with our specifications. The Purchasing Department is not responsible for locating or securing any information which is not included in the bid. Accordingly, to insure that sufficient information is available, the bidder must furnish as part of his bid all descriptive material, (i.e., Catalog Cuts, illustrations, drawings, specifications, or other information) necessary for the Purchasing Department to determine whether the goods or services offered meet the salient characteristic requirements of the bid.

3. BRAND NAMES

- 3.1. Unless otherwise provided in the invitation for bid, the name of a certain brand, make, or manufacturer does not restrict bidders to the specific brand, make, or manufacture mentioned; it conveys the general style, type, character, and quality of the equipment desired. The City shall determine in its sole discretion equipment bid to be equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

4. DELIVERY POINT:

- 4.1. All items shall be delivered F.O.B. destination, and delivery costs and charges included in the bid price. Failure to do so may be cause for rejection of bid. The bidder shall assume all liability and responsibility for the delivery of merchandise in good condition to the specified delivery location(s).

5. CASH DISCOUNTS:

- 5.1. Cash discounts will be considered in determining the award.

6. LATEST MODEL/QUALITY

- 6.1. Bidder shall bid on the latest model, design, etc. of this type of equipment by the manufacturer of which he represents. Equipment shall be new and unused.

7. NOTICE OF AWARD

- 7.1. Notice of award will be posted at <http://www.staunton.va.us/solicitation-results>

8. CHARGES AND PAYMENTS

8.1. To Prime Contractor:

- 8.1.1. 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.
- 8.1.2. 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.
- 8.1.3. 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.
- 8.1.4. 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.
- 8.1.5. 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).

8.2. Payment to Subcontractors:

- 8.2.1. An offeror awarded a contract under this solicitation is hereby obligated:
 - 8.2.1.1. 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
 - 8.2.1.2. To notify the agency and the subcontractor(s), in writing, of the offeror's intention to withhold payment and the reason.
- 8.2.2. 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.

9. AUDIT

9.1. The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City, whichever is sooner. The City, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

10. TESTING AND INSPECTION

10.1. 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.

11. ASSIGNMENT OF CONTRACT

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

12. DEFAULT

12.1. 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.

13. TAXES

13.1. 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.

14. INDEMNIFICATION

14.1. 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.

15. LIABILITY AND LITIGATION

15.1. 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.

16. COPYRIGHTS

- 16.1. 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.

17. AWARDING THE CONTRACT

- 17.1. 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.
- 17.2. 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>

18. PUBLIC INSPECTION OF PROCUREMENT RECORDS

- 18.1. 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:
- 18.2. Public inspection of certain records:
- 18.2.1. 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.
 - 18.2.2. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
 - 18.2.3. 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.

- 18.2.4. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- 18.2.5. 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
 - 18.2.5.1. invoke the protections of this section prior to or upon submission of the data or other materials,
 - 18.2.5.2. identify the data or other materials to be protected, and
 - 18.2.5.3. state the reasons why protection is necessary.
 - 18.2.5.4. Bidder may not invoke this protection on the entire bid – only on those sections or data which are considered trade secrets or proprietary.

19. ETHICS IN PUBLIC CONTRACTING

- 19.1. 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.

20. FORUM SELECTION

- 20.1. 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.

21. PROMPT PAYMENT ACT

- 21.1. 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.

22. REJECTION OF BIDS

- 22.1. 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.
- 22.2. Offerors are cautioned this is an Invitation to Bid, NOT a request to contract.

23. COSTS FOR BID PREPARATION

- 23.1. 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.

24. APPROPRIATIONS

- 24.1. 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.

25. ADDITIONAL FEDERAL GRANT PROVISIONS

- 25.1. The following provisions apply to a contract made under a federal grant: Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

26. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER

- 26.1. 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 or proposal the identification number issued to it by the State Corporation Commission (SCC).
- 26.2. 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 or proposal 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/>.

27. ANTITRUST

- 27.1. 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.

28. QUALIFICATIONS OF (BIDDERS/OFFERORS)

- 28.1. 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.
- 28.2. 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.

29. CANCELLATION OF THE CONTRACT

- 29.1. 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.

30. AVAILABILITY OF FUNDS

- 30.1. 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.

31. SELECTION PROCESS/AWARD

- 31.1. 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.

32. SAFETY AND OSHA STANDARDS

- 32.1. 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.

33. MODIFICATION & WITHDRAWAL OF BID

- 33.1. 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."

34. CONTRACT TERM

- 34.1. 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.
- 34.2. 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.
- 34.3. Part of the consideration will be the capability of the Offeror to immediately begin work and meet the proposed timetable above.
- 34.4. 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.
- 34.5. The contractor shall not assign or transfer any interest in the contract without prior written consent of the City.

35. COMPENSATION AND RECORD KEEPING

35.1. 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 “unit price” 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.

36. PAYMENT

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

37. BID BOND

37.1. When specified, each bid shall be accompanied by a bid bond with surety satisfactory to the City or a cashier’s or certified check, made payable to the Treasurer, City of Staunton, in an amount equal to 5 percent of the total bid price. In the event of default by the bidder the 5 percent deposit shall represent liquidated damages to the City.

38. PERFORMANCE AND PAYMENT BONDS

38.1. Successful contractor agrees to provide a performance bond and a payment bond for any contract signed which exceeds \$50,000.

39. BID ADDENDA

39.1. 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.

40. INSURANCE REQUIREMENTS

40.1. Insurance shall be in amounts not less than \$2,000,000, \$1,000,000, and \$1,000,000 respectively or such other insurance as is satisfactory and may be approved by the City. Insurance shall be written by companies licensed to do business in the Commonwealth of Virginia and shall list the City of Staunton as an additional insured.

41. CONTRACT TERMINATION

41.1. 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.

42. DEBARMENT STATUS

42.1. 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.

43. CONTRACTOR UNDERSTANDING

43.1. It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and locations of the work, the 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.

44. DRUG-FREE WORKPLACE

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

- 44.1.1. provide a drug-free workplace for the contractor's employees;
- 44.1.2. 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;
- 44.1.3. 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
- 44.1.4. 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.

45. NON-DISCRIMINATION

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

- 45.1.1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and the applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 45.1.2. 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.
- 45.1.3. 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.
- 45.1.4. The contractor will include the provisions of the foregoing paragraphs 44.1.1, 44.1.2, 44.1.3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

46. PERMITS AND LICENSES

- 46.1. Any required City permits must be obtained by the contractor at the contractor's sole expense. 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.

47. NEGOTIATION WITH SUCCESSFUL BIDDER

- 47.1. Should the lowest bid for Base Bid exceed the City's budget, the City may proceed with negotiations with the lowest bidder for the Base Bid in accordance with section 2.2-4318 of the Code of Virginia to obtain a contract price within the funds available to the City. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the City for this contract (including all grant funding) prior to issuance of the written Invitation for Bids. Negotiations with the low bidder may include both modifications of the bid price and Scope of Work/Specifications to be performed. The City shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and that the City wishes to negotiate a lower contract price. The times, places, and manner of negotiations shall be agreed to by the City and the lowest responsive bidder
- 47.2. 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.

48. COOPERATIVE PROCUREMENT

- 48.1. 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.

49. IMMIGRATION REFORM AND CONTROL ACT OF 1986

- 49.1. 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)

50. CERTIFICATION OF INTEREST & RELATIONSHIPS

- 50.1. 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 and submit the certification contemporaneously with the executed Contract.