



INVITATION TO BID

ITB-202271

JIM BARNETT PARK PRESTON FIELDS RESTROOMS AND PRESS
BOX

City of Winchester

Rouss City Hall 15 North Cameron Street

Winchester, VA 22601

RELEASE DATE: December 29, 2023

DEADLINE FOR QUESTIONS: January 26, 2024

RESPONSE DEADLINE: January 31, 2024, 2:00 pm

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

<https://secure.procurenow.com/portal/winchesterva>

City of Winchester

Public Services

ITB #ITB-202271

Jim Barnett Park Preston Fields Restrooms and Press Box

Friday, December 29, 2023

TABLE OF CONTENTS

I. INTRODUCTION

II. INVITATION TO BID.....

III. INSTRUCTIONS TO BIDDERS

IV. BID FORM

V. BID TABLE

VI. ARPA FUNDED

VII. FEDERAL TERMS AND CONDITIONS

VIII. CITY REQUIRED GENERAL TERMS AND CONDITIONS

IX. GENERAL CONDITIONS

X. SUPPLEMENTAL CONDITIONS TO GENERAL CONDITIONS

XI. SPECIAL CONDITIONS

XII. SCOPE OF WORK.....

Attachments:

A - PERFORMANCE BOND & LABOR AND MATERIAL PAYMENT BOND

B - GENERAL CONDITIONS

C - Preston Field Phase 2 DOL Wage Rate Determination

D - Site Plan Drawing

E - Structural Plans

F - Architectural Drawings

G - Electrical Drawings

H - Mechanical Drawings

I - Plumbing Drawings

J - Press Box Drawing

K - Construction Specifications

1. INTRODUCTION

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

The City encompasses 9.3 square miles and is located at the crossroads of U.S. Highways 11, 17, 50, 522, Interstate 81 and State Route 7. Interstate 66, terminating 11 miles south of the City at Interstate 81, provides a third transportation artery to Washington, D.C., 72 miles to the southeast. The City's population is currently estimated at slightly over 26,000.

1.1. Summary

The purpose of this ITB is to solicit bids from qualified contractors to provide all labor, equipment, parts, supplies, tools, transportation and materials necessary to provide: demolition of existing buildings and construction of new restrooms and press box at Preston Fields in Jim Barnett Park

1.2. Contact Information

Michael Marzullo

Purchasing Agent

Email: michael.marzullo@winchesterva.gov

Phone: [\(540\) 667-2378](tel:(540)667-2378)

Department:

Public Services

Department Head:

Perry Eisenach

Public Services Director

1.3. Timeline

ITB Release Date	December 29, 2023
Bidder Question Submission Deadline	January 26, 2024, 5:00pm

Bids Due	January 31, 2024, 2:00pm Bid opening will take place via Microsoft Teams through the link below: https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDcxNTlIZWMtMWFINS00MTdjLTg5NzktOWQ0NWJIN2U4OGFh%40thread.v2/0?context=%7b%22Tid%22%3a%22d8343b2f-58a5-43be-a02c-d2d2309cf6a4%22%2c%22Oid%22%3a%221ef5f8fa-f03e-40f5-bd20-99a88e84bbf6%22%7d
Award of Contract	March 1, 2024

2. INVITATION TO BID

Friday, December 29, 2023

Jim Barnett Park Preston Fields Restrooms and Press Box

ITB-202271

The City of Winchester (“City”) is submitting this Invitation to Bid (“ITB”) to establish a contract with qualified Contractors furnishing all labor, equipment, transportation and materials necessary for the following project:

Jim Barnett Park Preston Fields Restrooms and Press Box

Work includes: demolition of existing buildings and construction of new restrooms and press box at Preston Fields in Jim Barnett Park.

Pre-bid meeting: There will be no meeting for this ITB.

Contract documents, specifications and drawings may be obtained on Portal. Bidders shall navigate to the City’s e-Procurement Portal (“Portal”) using this link, <https://secure.procurenow.com/portal/winchesterva>, find and open this ITB, and click “Follow” to become a prospective bidder for this ITB. Offerors should also register on the Portal to receive automated notifications for upcoming solicitations.

Bidders should carefully examine the specifications and fully inform themselves as to all conditions and matters, which would in any way, affect the equipment/materials/service or cost thereof. Should a bidder find discrepancies in, or omissions from the specifications or ITB, bidder shall use the Question and Answer (“Q&A”) tab on the Portal to submit all inquiries before 5:00 pm on Friday, January 26, 2024. All appropriately submitted questions will be answered in writing on the Portal. Only questions answered on the Portal, located in the Q&A tab, will be binding; oral and other interpretations or classifications will be without legal effect.

The City will accept sealed bids until 2:00 pm on Wednesday, January 31, 2024 online via the Portal, <https://secure.procurenow.com/portal/winchesterva>, at which time bids shall be publicly opened. Bids are to be submitted online via the Portal only. Bids submitted in any other format, including but not limited to, hard copy (mailed or hand delivered), facsimile, or by email will not be accepted, nor considered for award.

Bids will be received only from Contractors who are registered in the Commonwealth of Virginia.

Each Bid shall also be accompanied by a satisfactory Bid Guarantee in the amount of 5% of the bid, in the form of a certified or cashier's check drawn on a bank chartered under the laws of the Commonwealth of Virginia; payable to the Treasurer of the City of Winchester, or a Bid Bond, as a guarantee that the bidder will within fifteen (15) days after the date of the award of the Contract, execute an agreement and file insurance as required by the Contract Documents if his proposal is accepted. If the successful bidder fails to execute and file the agreement and insurance, the amount of the Bid Guarantee shall be forfeited. Bids without a satisfactory Bid Guarantee shall be rejected.

Performance and Payment Bonds will be required of the successful bidder, each in an amount equal to one hundred (100) percent of the amount of the Contract, conditioned upon the faithful performance of the Contract and to the payment in full to all persons furnishing labor, materials, equipment, etc., for and in connection with the work to be performed under the contract.

Bidder desiring to withdraw his bid after the bid opening procedure, shall 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. Bidder shall submit to the City his original work papers; documents and materials used in preparation of the bid sought to be withdrawn. Bidder withdrawing his bid that does not meet these requirements shall forfeit their bid bond.

The City of Winchester reserves the right to reject any proposal for failure to comply with all requirements of this notice or any of the Contract Documents; however, it may waive any minor defects or informalities at its discretion. The City further reserves the right to reject any and all proposals or to award a contract that in its judgment is in the best interest of the City.

CITY OF WINCHESTER, VIRGINIA

BY: Michael Marzullo, Purchasing Agent

3. INSTRUCTIONS TO BIDDERS

3.1. OWNER AND ENGINEER

The Owner is the City of Winchester, Virginia, which shall be represented by the Director of Public Services or his designee who shall perform the duties of the Engineer. Telephone: Department of Public Services, (540) 667-2085.

3.2. COPIES OF CONTRACT DOCUMENTS

- A. Bidding Documents may be examined and downloaded from the City's website at <https://secure.procurenow.com/portal/winchesterva> at no charge.
- B. Complete set of Bidding Documents shall be used in preparing bids; neither the Owner nor the Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents. Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining bids on the Work and do not confer a license or grant for any other use.

3.3. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- A. Before submitting a bid, each bidder must examine the Contract Documents thoroughly, visit the site to familiarize himself with local conditions that may in any manner affect cost, progress, or performance of the work, familiarize himself with federal, state, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work; and study and carefully correlate bidder's observations with the Contract Documents.
- B. Before submitting his bid, each bidder will, at his own expense, make such additional investigations and tests as the bidder may deem necessary to determine his bid for performance of the work in accordance with time and other terms and conditions of the Contract Documents. The Contractor shall be responsible for taking his own borings or making any investigations he requires to establish subsurface conditions in the area of this Contract. The City does not assume any responsibility for the subsurface conditions which may be encountered. On request, Owner will provide each bidder access to the site to conduct such investigations.
- C. The submission of a bid will constitute an incontrovertible representation by the bidder that he has examined the site and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of the Work.
- D. It is understood and agreed by the bidder that the estimate of quantities (if provided) are approximate, and are presented in order to obtain unit prices and approximate amount of the Contract. The Contractor shall make no claim against the City because of any estimate, tests or representations made by any officer or agent of the City, which may prove to be in any respect erroneous.

- E. Scope of the work is as specified herein. The Owner, however, reserves the right to make adjustments to the scope of the work. Such adjustments shall be accomplished by appropriate Change Orders.

3.4. SPECIFICATIONS

The technical specifications for the project are provided within this contract document. If not specifically addressed within these technical specifications provided, the following specifications shall apply:

- A. VDOT 2020 Road & Bridge Specifications (or most recent edition)
- B. City of Winchester Standards Manual

3.5. QUESTIONS

All questions about the discrepancies or ambiguities in the Contract Documents prior to the bid opening shall be submitted in writing via the Portal under the Questions & Answers ("Q&A") tab for this project.

Replies to questions will be issued Via the Portal and emailed to all parties that appear on the Follower's List in the Portal.

Questions received less than five (5) calendar days prior to the date for opening of bids may not be answered. Only questions answered via the Portal, located in the Q&A tab, will be binding, and shall be considered part of the awarded contract.

3.6. REQUIRED BOND - BID GUARANTEE

- A. Bid Guarantee shall be made payable to Owner, in an amount of five percent (5%) of the bidder's maximum bid price and in a form of a certified or cashier's check drawn on a bank chartered under the laws of the Commonwealth of Virginia; payable to the Treasurer, City of Winchester, or a Bid Bond issued by a surety having registered resident agents in Virginia.
- B. The Bid Guarantee of the successful bidder will be retained until such bidder has executed the Agreement and furnished the required Contract Security, whereupon it will be returned. If the successful bidder fails to execute the agreement and furnish the required Contract Security within fifteen (15) calendar days of the Notice of Award, Owner may annul Notice of Award and the Bid Guarantee of the bidder will be forfeited.

3.7. REQUIRED BONDS – PAYMENT AND PERFORMANCE

Performance and Payment Bonds will be required of the Successful bidder, each in an amount equal to one hundred percent (100%) of the amount of the Contract, conditioned upon the faithful performance of the Contract and to the payment in full to all persons furnishing labor, materials, equipment, etc., for and in connection with the work to be performed under the Contract.

3.8. CONTRACT TIME

Contractor agrees that all work shall be completed within 180 calendar days following the Notice to Proceed.

Owner and Contractor recognize that the time is of essence in this Contract, and if the work is not completed within the specified times outlined above, plus any extensions allowed, then the Contractor shall pay, as liquidated damages, \$500.00 for each calendar day that expires after the specified completion date.

3.9. PAYMENT PROCEDURE

- A. The basis for payment shall be the actual percentage of work completed, as determined in the field by the Engineer.
- B. An amount equal to five percent (5%) of each progress payment shall be held from each payment as retainage.

3.10. SUBCONTRACTORS

- A. The apparent successful bidder and any other bidder so requested, will within seven (7) days after the day of bid opening submit to Owner a list of all subcontractors and other persons and organizations, including those who are to furnish the principal items of material and equipment, proposed for the work. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such subcontractor, person, and organization. If Owner or Engineer, after due investigation has reasonable objection to any proposed subcontractor, other person or organization, either may before giving the Notice of Award request the apparent successful bidder to submit an acceptable substitute without an increase in Bid price. If the apparent successful bidder declines to make any such substitution, the Contract shall not be awarded to such bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Bond. Any subcontractor, other person, or organization so listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer.
- B. No Contractor shall be required to employ any subcontractor, other person, or organization against whom he has reasonable objection.

3.11. SUBSTITUTE MATERIAL AND EQUIPMENT

- A. Whenever it is indicated in the Contract Documents that a substitute or "or equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered until after the Effective Date of the Contract Agreement. The procedure for submittal of any such application by Contractor and consideration by Engineer is set forth in the General Conditions.

3.12. PREPARATION OF BID

- A. The #BID FORM and #BID TABLE are included in these Specifications, and may not be altered in any way.

- B. Bid Forms and Bid Tables must be completed electronically.
- C. A bidder shall execute his Bid as stated below:
 - 1. A Bid by an individual shall show his name and official address.
 - 2. A Bid by a partnership must be executed in the partnership name and signed by a partner. His title must appear under his signature and the official address of the partnership shall be shown.
 - 3. A Bid by a corporation must be executed in the corporate name by an officer of the corporation and must be accompanied by a certified copy of the resolution of the board of directors authorizing the person signing the Bid to do so on behalf on the corporation. The corporate seal shall be affixed and attested by the secretary. The state of incorporation and the official corporate address shall be shown.
 - 4. All names must be printed below the signature.
 - 5. Contractor's license or registration number shall be entered in the space provided on the Bid Form.
- D. A bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). 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 of the Code of Virginia or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror described herein that fails to provide the required information may not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the City Manager. The SCC may be reached at (804) 371-9733 or at <http://www.scc.virginia.gov/default.aspx>.
- E. Bidder shall make acknowledgement of receipt of all Addenda as part of their bid response.

3.13. SUBMISSION OF BIDS

- A. Bids shall be submitted before the deadline via the Portal as indicated in the Invitation to Bid.
- B. It is the sole responsibility of the Bidder to insure that their Bid is submitted timely via the Portal before the bid due date and time. Late bids will not be accepted. Failure of the Bidder to successfully submit an electronic bid before the deadline indicated herein shall be at the Bidder's sole risk, and no relief will be given for late and/or improperly submitted bids. Once file(s) have been uploaded and the Submission Status shows as "Submitted" the submission is complete. At that point, the Bidder will also receive an email confirmation from the Portal. The

City will not be responsible for untimely submissions due to personal or company internet or hardware limitations, settings or restrictions, internet speed, power outage, network connection, or use of a malfunctioning electronic device, or the like, neither the City, nor OpenGov, the Software Administrator, will be held responsible. Bidders shall be solely responsible for ensuring the capability of their computer system while responding to this solicitation, and for the stability of their internet service. Uploading large documents may take significant time depending on the size of the file(s) and the Internet connection speed that the Bidder is using to submit a response.

- C. Bids by telephone, facsimile, email, hard copy (mailed or hand delivered) or other forms shall not be accepted.

3.14. MODIFICATION AND WITHDRAWAL OF BIDS

- A. Bids may be modified or withdrawn electronically on the Portal at any time prior to opening of the bids. It is the Bidder's sole responsibility to un-submit their response and re-submit appropriately if changes need to be made to their Bid prior to the deadline.
- B. No bidder may withdraw his bid within thirty (30) calendar days after the actual date of the bid opening, except as allowed by the Code of the City of Winchester, Virginia, Section 21-43(a), which states "the Bidder shall give notice in writing of his claim of rights to withdraw this bid within two (2) business days after the conclusion of the bid opening procedure". Bidder shall submit to the Owner his original work papers, documents and materials used in preparation of his bid sought to be withdrawn.

3.15. OPENING OF BIDS

- A. Bids shall be opened publicly, and will be read aloud at the time and location indicated on the Invitation to Bid. An abstract of the amounts of the Bids shall be made available after the opening of bids.
- B. All bids shall remain open for sixty (60) days after the day of the bid opening, but Owner may, in his sole discretion, release any bid and return the Bid Bond prior to that date.

3.16. AWARD OF CONTRACT

- A. Owner reserves the right to reject any and all bids, to waive any and all informalities, and the right to disregard all nonconforming, nonresponsive, or conditional bids. Discrepancies between words and figures shall be resolved in favor of words. Discrepancies between indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- B. In evaluating bids, Owner will consider the qualifications of the bidders, whether or not the bids comply with the prescribed requirements, and alternates and unit prices if requested in the Bid Form. Owner may consider the qualifications and experience of subcontractors and other persons and organizations proposed for the work.

- C. Owner may conduct such investigations as he deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications, and financial ability of the bidders, proposed subcontractors and other persons and organizations, to do the work in accordance with the Contract Documents and to the Owner's satisfaction within the prescribed time.
- D. Owner reserves the right to reject the bid of any bidder who does not pass any such evaluations to Owner's satisfaction.
- E. If the Contract is to be awarded, it will be awarded to the lowest responsive and responsible bidder whose evaluation by the Owner indicates that the award will be in the best interest of the Project and the City. Discounts for prompt payment, liquidated damages, and cash incentives will not be part of the award.

3.17. NEGOTIATION WITH THE LOWEST BIDDER

Unless all bids are cancelled or rejected, the City of Winchester reserves the right granted by § 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive, responsible bidder to obtain a contract price within the funds available to the agency whenever such low bid exceeds the agency's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the agency for this contract prior to the issuance of the written Invitation for Bids. Negotiations with the low bidder may include both modifications of the bid price and the Scope of Work/Specifications to be performed. The agency shall initiate such negotiations by written notice to the lowest responsive, responsible bidder that its bid exceeds the available funds and that the agency wishes to negotiate a lower contract price. The times, places, and manner of negotiating shall be agreed to by the agency and the lowest responsive, responsible bidder.

3.18. SIGNING OF CONTRACT

Owner shall give Notice of Award to the successful bidder accompanied by at least three (3) unsigned counterparts of the Contract and all other Contract Documents. Within fifteen (15) days thereafter, Contractor shall sign and deliver at least three (3) counterparts of the Contract to the Owner with all other Contract Documents attached. Within ten (10) days thereafter, Owner will deliver all fully signed counterparts to Contractor. Engineer will identify those portions of the Contract Documents not fully signed by Owner and Contractor and shall ensure that all parties appropriately execute all required portions of the contract immediately.

4. BID FORM

4.1. BID FORM CONFIRMATION*

In submitting this Bid, bidder acknowledges that the bidder has examined copies of the following Contract Documents:

BIDDING DOCUMENTS

- Invitation to Bid
- Instructions to Bidders
- Bid Form
 - Contractor Qualification Data Sheet, if included in Bid Form
 - Bid Bond
 - Non-Collusion Affidavit
- Performance Bond
- Labor and Material Payment Bond
- City of Winchester Required General Terms and Conditions
- General Conditions
- Supplement to General Conditions
- Special Terms and Conditions

TECHNICAL SPECIFICATIONS

DRAWINGS

ADDENDA

BID ITEMS/QUANTITIES (BID TABLE)

Please confirm

*Response required

4.2. Virginia Contractor's Registration Number*

*Response required

4.3. Bid Guarantee*

Each Bid shall also be accompanied by a satisfactory Bid Guarantee in the amount of 5% of the bid, in the form of a certified or cashier's check drawn on a bank chartered under the laws of the Commonwealth of Virginia; payable to the Treasurer of the City of Winchester, or a Bid Bond, as a

guarantee that the bidder will within fifteen (15) days after the date of the award of the Contract, execute an agreement and file insurance as required by the Contract Documents if his proposal is accepted. If the successful bidder fails to execute and file the agreement and insurance, the amount of the Bid Guarantee shall be forfeited. Bids without a satisfactory Bid Guarantee shall be rejected.

Download the following document, and then submit the fully executed copy here.

- [BID_BOND.docx](#)

*Response required

4.4. [Non-Collusion Affidavit*](#)

Please download the below document, and then submit the fully executed copy here.

- [NON-COLLUSION_AFFIDAVIT.docx](#)

*Response required

4.5. [CONTRACTOR QUALIFICATION DATA SHEET](#)

General:

In order to be considered for selection, Bidders shall submit the following information as part of your response to this solicitation. Failure to complete and provide this data sheet and the requested information may result in a non-responsive bid.

Proprietary Information

All source code, executables, user data, materials, meeting minutes, progress reports and documentation shall be submitted to the City and shall belong exclusively to the City, and shall be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by a Bidder shall not be subject to public disclosure under the Virginia Freedom of Information Act provided the Bidder invokes the protections of Section 2.2-4342F of the Virginia Public Procurement Act, which provides that:

“Trade secrets or proprietary information submitted by a Bidder, or subsequently the Contractor, in connection with a procurement transaction, shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, the Bidder or Contractor must invoke the protection of this Section prior to, or upon submission of the data or other materials. The Contractor must identify the data or other materials to be protected and justify in writing the explicit reasons that such protection is necessary. Failure to mark the data or other materials as proprietary or otherwise classified, will result in the data or other materials being released to Bidders or to the public as provided in the Virginia Freedom of Information Act.”

The classification of the entire proposal document and total bid price as proprietary or trade secrets is not acceptable.

Incurred Cost

The Bidder is responsible for all costs of proposal preparation. The City of Winchester is not liable for any costs incurred in response to the ITB.

Contractor Qualifications:

Proposals should be as thorough and detailed as possible so that City may properly evaluate your capabilities to provide the required services. Bidders shall submit responses for the following items within your Bid response.

ITB# ITB-202271

*4.5.1. How many years has your organization been in business as a licensed contractor?**

*Response required

*4.5.2. e. How many years has your organization been in business under its present name?**

*Response required

*4.5.3. List the states and categories of construction in which your organization is legally qualified to do business**

*Response required

*4.5.4. Qualifications: Provide a description of the organizational structure and history. Identify key personnel to be assigned to this project and their relevant experience in work similar to this project.**

*Response required

*4.5.5. Debarment/Suspension List: Firms shall confirm in writing that they are not currently on any debarment or suspension list of any local, state or federal government. Any firm found to be listed shall be rejected as non-responsive.**

Please confirm

*Response required

*4.5.6. Quality Management Plan and Timeliness Tracking Plan**

The Contractor shall provide a detailed description of all internal control methods used to insure quality throughout all of the contractor's operations, as well as the system or method that will be employed to track, monitor, and ensure compliance with all time line requirements of this ITB.

*Response required

*4.5.7. Past Project Experience**

The Contractor shall provide a minimum of three (3) references that are similar in nature to the City's proposed construction project. The submitted projects shall have been initiated or completed in the past five (5) years and exceed \$1,000,000 of total value. In the response, the Contractor shall provide a one to two paragraph description of the work performed, and the name, address, telephone number,

and email address of the owner's representative. For each reference, the response shall also delineate the specific value of the underground utility installations, as defined above, as well as the total value of all the work completed.

The Contractor shall include in this list any contract(s) in the past five (5) years that were terminated and shall provide the reason for termination.

*Response required

4.5.8. *Management of Simultaneous Contracts**

The Contractor shall list all the name of projects, owner's name and address, percent complete and scheduled completion of the major projects in progress on the date of proposal submittal and the estimated contract amount of all executed contracts that will be underway at the same time as the City's proposed construction project. The contractor shall also state how the contract needs of the City will be met with the available company resources considering that these other contracts will be underway simultaneously.

*Response required

4.5.9. *Financial Statements**

Please submit your company's audited annual financial statement and/or Dunn & Bradstreet report for the last two (2) years.

*Response required

4.5.10. *Subcontracting Restrictions**

The Prime Contractor shall perform or exercise responsibility for this contract with its own work force for at least 50% of the total dollar value of the contract. Identify the sub-Contractor(s) who will do work on this project and the amount of work that each is projected to perform.

*Response required

4.5.11. *Certification**

I certify that the information provided in the Contractor Qualifications is complete and accurate to the best of my knowledge.

Please confirm

*Response required

4.5.12. *Certificate Regarding Lobbying**

Please download the below document, complete, and upload.

- [Certificate Regarding Lobby...](#)

*Response required

4.5.13. *Debarment and Suspension Certificate**

Please download the below document, complete, and upload.

- [Debarment and Suspension Ce...](#)

*Response required

4.5.14. *Davis-Bacon Act**

Please verify that you have reviewed the DOL Wage Rate Determination located in [ATTACHMENTS](#).

Yes

No

*Response required

5. BID TABLE

- A. The Contractor shall provide all unit prices or lump sum prices for all bid items on the Bid Table herein. If a unit price or lump sum price is omitted or left blank the bid and bidder shall be non-responsive. The bid forms designate which prices are for Install only work, complete and in place, (i.e. assumes equipment and/ or materials will be supplied by the City). All other bid prices are for Furnish and Install work, complete and in place.
- B. The quantities shown for unit bid items are based upon the best information available at time of preparation of these bid documents, and are established for the purpose of obtaining a bid price. No adjustments to the bid prices based on changes to quantities will be considered. All bid prices will be held throughout the duration of the contract regardless of any increase or decrease in bid quantity.
- C. Emergency work shall be negotiated with a maximum allowable amount of 50% over the bid price by item. This excludes all lump sum bid items.
- D. All other bid items not listed or described in the Contract Documents will be negotiated between the City and the Contractor before the time of need. Once a negotiated price is established, it will be used for the remainder of the contract.

The undersigned Bidder proposes to complete all work in accordance with the Contract Documents for the following unit prices:

PRESTON FIELDS RESTROOMS AND PRESS BOX

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Demolition of Existing Building and Disposal at Landfill	1	Lump Sum		
2	New Restroom and Pressbox Building	1	Lump Sum		
3	Concrete Stairs, Guardrail, and Handrail	1	Lump Sum		
4	4" Concrete Sidewalk Around Building	300	Square Yards		
5	Grading	1	Lump Sum		
6	Topsoil and Seeding	200	Square Yards		
7	Rock Excavation	5	Cubic Yards		

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
TOTAL					

6. ARPA FUNDED

This service is being funded in whole or in part by, The American Rescue Plan act (ARPA), federal grant. All proposers must follow all applicable, federal guidelines and clauses contained in U.S. Treasury CFR 200.

7. FEDERAL TERMS AND CONDITIONS

7.1. REMEDIES

Disputes – Disputes arising in the Performance of the Contract which are not resolved by agreement of the parties shall be decided in writing by the City Manager of the City of Winchester. This decision shall be final and conclusive unless within six (6) months from the date of receipt of its copy, the Contractor mails or otherwise furnished a written appeal to the City Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence of its position. The decision of the City Manager of the City of Winchester shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the City of Winchester, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless the Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Winchester and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within Winchester, Virginia.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City of Winchester or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

7.2. TERMINATION FOR CAUSE AND CONVENIENCE

Termination for Convenience. The City of Winchester may terminate the Contract, in whole or in part, at any time and for any reason by written notice to the Contractor when it is in the best interest of the City of Winchester. The Contractor shall be paid its costs, including Contract close-out costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City of Winchester to be paid to the Contractor. If the Contractor has any property in its possession belonging to the City of Winchester, the Contractor will account for the same, and dispose of it in the manner the City of Winchester directs.

Termination for Default. If the Contractor fails to make delivery of the goods or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of the Contract in accordance with its terms and, in either of these two circumstances, does not cure such failure within a period of ten (10) days after receiving such notice from the City of Winchester,

thereafter, the City of Winchester may terminate the Contract for default and have the Work completed and the Contractor shall be liable for any resulting cost to the City of Winchester. In the event of termination for default, the Contractor will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract. If, after termination for failure to fulfill Contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Winchester.

Termination Due to Insufficient Funds. If at any time during the term of the Contract the City of Winchester makes a determination that the City of Winchester has insufficient funds with which to carry out its performance and obligations under the Contract, then the City of Winchester may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to the City of Winchester.

Termination Due to Failure to Receive a Grant or other Funding Device. If at any time during the term of the Contract the City of Winchester ceases to receive a grant or other funding device from a third party with which it intended to pay for the goods or services Contracted for, then, unless otherwise directed by the City of Winchester, the City of Winchester may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to the City of Winchester.

Damages upon Termination. Any damages to be assessed to the Contractor as a result of a default termination or any claim by Contractor for costs resulting from a termination for convenience by the City of Winchester, a termination due to insufficient funds by the City of Winchester, or a termination due to a failure to receive a grant or other funding device by the City of Winchester will be computed and allowable in accordance with federal regulations in effect at the time of termination.

7.3. EQUAL EMPLOYMENT OPPORTUNITY

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual; orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the

administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulation, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.4. DAVIS-BACON ACT

Compliance with the Davis-Bacon Act:

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) and the requirements of 29 CFR Part 5 as may be applicable. The contractor shall comply with 40 USC 3141-3144, and 3146-3148 and the requirements of 29 CFR Part 5 as applicable.
- b. Contractors are 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.
- c. Additionally, contractors are required to pay wages not less than once a week.

Applicable DOL prevailing Wage Rates applicable to this project can be found in Section 13, Attachments.

7.5. COPELAND ANTI-KICKBACK ACT

Compliance with the Copeland “Anti-Kickback” Act:

- a. Contractor. The contractor shall comply with 18 USC Section 874, 40 USC Section 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the City of Winchester may deem appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR Section 5.12.

7.6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Compliance with the Contract Work Hours and Safety Standards Act:

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$500.00 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages require by the clause set forth in paragraph (b)(1) of this section.
- c. Withholding for unpaid wages and liquidated damages. The City of Winchester shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy

any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7.7. CLEAN AIR AND THE FEDERAL WATER POLLUTION CONTROL ACT

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC Section 7401 et seq.
2. The contractor agrees to report each violation to the City of Winchester and understands and agrees that the Contractor will, in turn, report each violation as required to assure notification to the City of Winchester, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the City of Winchester.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq.
2. The Contractor understands and agrees that they will, in turn, report each violation as required to assure notification to the City of Winchester, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the City of Winchester.

7.8. DEBARMENT AND SUSPENSION

Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 CFR Section 180.995) or its affiliates (defined at 2 CFR Section 180.905) are excluded (defined at 2 CFR Section 180.940) or disqualified (defined at 2 CFR Section 180.935).
2. The contractor must comply with 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by the City of Winchester. If it is later determined that the contractor did not comply with 2 CFR Part 180, Subpart C and 2 CFR Part 3000,

Subpart C, in addition to remedies available to the City of Winchester, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, Subpart C and 2 CFR Part 3000, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7.9. BYRD ANTI-LOBBYING AMENDMENT

Byrd Anti-Lobbying Amendment, 31 USC Section 1352 (as amended):

Contractors who apply or bid for an award of \$100,000 or more shall 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 USC Section 1352. Each tier shall 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 recipient who in turn will forward the certification(s) to the awarding agency.

7.10. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements;
 3. At a reasonable price.Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guidelines-cpg-program>. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

7.11. ACCESS TO RECORDS

- A. Access to Records
 1. The Contractor agrees to provide the City of Winchester, or any authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 3. The Contractor agrees to provide the City of Winchester access to construction or other work sites pertaining to the work being completed under the contract.

7.12. CONTRACT CHANGES OR MODIFICATIONS

Contractor shall at all times comply with all applicable federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

7.13. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

Contractor understands that Federal, state and local laws, regulations, policies, and related administrative practices ("Laws") applicable to the Contract on the date the Contract was executed (the "Execution Date") may be modified from time to time, or new Laws may be established after the Execution Date. Contractor agrees that the most recent of such Laws will govern the administration of the Contract at any particular time, unless there is sufficient evidence in the Contract of a contrary intent. Contractor agrees to comply with all applicable Federal law, regulations, executive orders, City of Winchester policies, procedures, and directives.

7.14. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

7.15. PROGRAM FRAUD AND FALSE OR FRAUDULANT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 USC Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

7.16. BUY AMERICA - REQUIRED USE OF AMERICAN IRON, STEEL, MANUFACTURED PRODUCTS, AND CONSTRUCTION MATERIALS

Contractor should, to the greatest extent practicable under a Federal award, provide 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). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

1. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. ("Manufactured products" means items and

construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber)

3. All construction materials (excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives) are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

8. CITY REQUIRED GENERAL TERMS AND CONDITIONS

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

8.1. APPLICABLE LAWS AND COURTS

This solicitation and any resulting contract shall be governed by the laws of the Commonwealth of Virginia. Any dispute arising from the performance or non-performance of this Agreement shall be resolved or otherwise litigated in the Circuit Court for the City of Winchester, Virginia or the Fourth Circuit Federal District Court in Harrisonburg, Virginia. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute following the Winchester City Code, Chapter 21-61. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

8.2. ANTI-DISCRIMINATION

By submitting their (bids/proposals), (bidders/offers) certify to the City of Winchester that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

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

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
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.

3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- B. 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.

8.3. ETHICS IN PUBLIC CONTRACTING

By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

8.4. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

8.5. DEBARMENT STATUS

By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Federal Government, Commonwealth of Virginia, or by any City, Town or County from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

8.6. ANTITRUST

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Winchester all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Winchester under said contract.

8.7. MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS

Failure to submit a bid/proposal on the official City form provided for that purpose may be a cause for rejection of the bid/proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the bid/proposal; however, the City of Winchester reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid/proposal.

8.8. CLARIFICATION OF TERMS

If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the Purchasing Agent, or designee.

8.9. PAYMENT

A. To Prime Contractor:

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 state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
2. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
3. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which department is being billed.
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.
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 Winchester shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (Code of Virginia, § 2.2-4363).

B. To Subcontractors:

1. A contractor awarded a contract under this solicitation is hereby obligated:
 - a. To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the City of Winchester for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - b. To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

2. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the City of Winchester, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the City of Winchester.

8.10. PRECEDENCE OF TERMS

The following General Terms and Conditions APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF CITY FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply and take precedence.

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

- A. Contract
- B. Negotiation Summary
- C. City's Procurement Document(s)
- D. Contractor's Response
- E. Other Documents

8.11. QUALIFICATIONS OF (BIDDERS/OFFERORS)

The City of Winchester may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the City of Winchester all such information and data for this purpose as may be requested. The City of Winchester reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The City of Winchester further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the City of Winchester that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

8.12. TESTING AND INSPECTION

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

8.13. ASSIGNMENT OF CONTRACT

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

8.14. SEVERABILITY OF CONTRACT

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

8.15. CHANGES TO THE CONTRACT

- A. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or ten thousand dollars (\$10,000), whichever is greater, without the advance written approval of the City Council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer (Winchester City Code 21-44).
- B. Changes can be made to the contract in any of the following ways:
 1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 2. The City of Winchester may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the City of Winchester a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the City of Winchester's right to audit the contractor's records and/or to determine the correct number of units independently; or

- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the City of Winchester with all vouchers and records of expenses incurred and savings realized. The City of Winchester shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the City of Winchester within thirty (30) days from the date of receipt of the written order from the City of Winchester. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the City of Winchester Code. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the City of Winchester or with the performance of the contract generally.

8.16. DEFAULT

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

8.17. TAXES

Sales to the City of Winchester are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request.

8.18. USE OF BRAND NAMES

Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offerors) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The (bidder/offeror) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City of Winchester to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offeror) clearly

indicates in its (bid/proposal) that the product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

8.19. TRANSPORTATION AND PACKAGING

By submitting their (bids/proposals), all (bidders/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

8.20. INSURANCE

By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

- A. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the City of Winchester of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract. The insurer must have an A.M. Best rating of A- or better.
- B. Employer's Liability - \$100,000.
- C. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Winchester must be named as an additional insured and so endorsed on the policy by the insurer. A notation on the certificate of insurance is not sufficient.
- D. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

NOTE: In addition, various Professional Liability/Errors and Omissions coverages are required when soliciting those services as follows:

Profession/Service Limits

Accounting: \$1,000,000 per occurrence, \$3,000,000 aggregate

Architecture: \$2,000,000 per occurrence, \$6,000,000 aggregate

Asbestos Design, Inspection or Abatement Contractors: \$1,000,000 per occurrence, \$3,000,000 aggregate

-

Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.): \$1,925,000 per occurrence, \$3,000,000 aggregate

-

(Limits increase each July 1 through fiscal year 2008, as follows:

July 1, 2008 - \$2,000,000. This complies with §8.01-581.15 of the Code of Virginia.

-

Insurance/Risk Management: \$1,000,000 per occurrence, \$3,000,000 aggregate

Landscape/Architecture: \$1,000,000 per occurrence, \$1,000,000 aggregate

Legal: \$1,000,000 per occurrence, \$5,000,000 aggregate

Professional Engineer: \$2,000,000 per occurrence, \$6,000,000 aggregate

Surveying: \$1,000,000 per occurrence, \$1,000,000 aggregate

8.21. ANNOUNCEMENT OF AWARD

Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the Purchasing Agent will publicly post such notice on the City of Winchester's web site (<https://secure.procurenow.com/portal/winchesterva>) for a minimum of 10 days.

8.22. DRUG-FREE WORKPLACE

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale,

distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

8.23. NONDISCRIMINATION OF CONTRACTORS

A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

8.24. AVAILABILITY OF FUNDS

In the event that funds are not appropriated for this Contract for any City fiscal year, following the City's current year, the Contract shall terminate automatically as of the last day for which funds were appropriated without the City providing written notice to the Contractor prior to the date of termination. The City shall not consider termination of the Contract pursuant to this section default. Upon such termination, the City shall be released from any obligation to make future payments and shall not be liable for cancellation or termination charges.

8.25. LICENSES AND PERMITS

Contractors will be responsible for all licenses and permits, if required. Any person, firm, or corporation responding to the City's procurement which is required to have a current and valid City of Winchester business license and, in fact, does not, will not be considered a "responsive bidder" as such term is defined by the Code of Virginia §2.2-4301, as amended. Any bid received from such an entity may be rejected, at the City's sole option, for that reason alone. In addition, the successful bidder or offeror will be required to produce affirmative evidence, satisfactory to the Purchasing Agent, or designee that it has such a license, or is not required to have such a license, prior to approval and execution of any contract to perform the work herein described.

8.26. TERMINATION

- A. Termination for Convenience: The City of Winchester may terminate a contract, in whole or in part, whenever the City OF Winchester determines that such termination is in the best interest of the City of Winchester, without showing cause, upon giving ten (10) days written notice to the vendor.
- B. Termination for Default: When the vendor has not performed or has unsatisfactorily performed the contract, the City of Winchester may terminate the contract for default. Upon termination

for default, payment may be withheld at the discretion of the City of Winchester. The Vendor will be paid for work satisfactorily performed prior to termination.

8.27. HOLD HARMLESS

Bids/Proposal shall provide that during the term of the contract, including warranty period, for the successful bidder/offeror indemnifying, defending, and holding harmless the City, its officers, employees, agent and representatives thereof from all suits, actions, claims of any kind (including claims for attorney's fees) brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect in safeguarding contract work, or on account of any act or omission by the contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The vendor agrees that this clause shall include claims involving infringement of patent or copyrights.

8.28. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION

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

8.29. BID PRICE CURRENCY

Prices are to be stated in US dollars unless otherwise specified in the solicitation.

9. GENERAL CONDITIONS

The full General Conditions can be found in the [#ATTACHMENTS](#).

10. SUPPLEMENTAL CONDITIONS TO GENERAL CONDITIONS

- A. Delete subparagraph 5.06(A), 5.06(A) Sections 1-7, and subparagraph 5.06(B) Delete sentence in subparagraph 5.07(A) beginning with “All such projects shall contain provisions...”
- B. Delete subparagraph 5.07(B), 5.06(B) Sections 1-2, and subparagraph 5.06(C)
- C. Delete Paragraph 10.05 (Claims) and replace Paragraph 10.05 (Claims) by reference with the Winchester City Code, Section 21-61 (Contractual Disputes), as amended and where the Winchester City Code does not specify in writing the Virginia Public Procurement Act (VPPA) §2.2-4363 shall apply, as amended. Under Winchester City Code 21-61(C), the Purchasing Agent will render such decision within thirty (30) days.
- D. Add subparagraph 12.01(D), as follows:
- E. “In accordance with Winchester City Code, Section 21-44, Contract Modification: A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or ten thousand dollars (\$10,000), whichever is greater, without the advance written approval of the City Council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.”
- F. Add the following language to 14.02 (A3), as follows: “See Special Conditions, Section 4.02.”
- G. Delete paragraph 14.09
- H. Add subparagraph 17.01 (B), as follows: “This section, or any other General Condition in conflict with Virginia Code §8.01-222 shall not supercede the Commonwealth of Virginia statutory notice provisions. Virginia Code §8.01-222 shall prevail under all circumstances.

11. SPECIAL CONDITIONS

11.1. SPECIFICATIONS

Unless otherwise described in the Contract Documents, the following specifications and standards apply to this work:

- A. City of Winchester – Public Services Standards Manual, latest edition
- B. 2020 VDOT Road and Bridge Specifications

In the case of overlap or conflict, this order shall be used to determine the governing specification.

11.2. INSURANCE REQUIREMENTS – CITY OF WINCHESTER

- A. Before any work at the site is started, Contractor shall deliver to Owner, with a Copy to Engineer, an executed Certificate of Insurance. The Certificate shall indicate that the required insurance is in force and state that the policies will not be materially changed or canceled without a thirty (30) day advance notice by registered mail to Owner and Engineer. The representative signing the Certificate shall furnish evidence that he is authorized to so sign as well as his address and the name and address of the agency or agencies through which the insurance was obtained. Contractor shall take out and maintain the following insurance:
- B. Contractor's Comprehensive General Liability (bodily injury and property damage) shall be provided for the following limits:
 - 1. Combined single limit 5,000,000 dollars each occurrence
 - 2. Combined single limit: 5,000,000 dollars annual aggregate
 - 3. The general liability insurance shall include the following coverage:
 - a. Comprehensive Form
 - b. Premises - Operation
 - c. Explosion and Collapse Hazard
 - d. Underground Hazards
 - e. Products/Completed - Operations Hazards
 - f. Contractual Liability Insurance
 - g. Broad Form Comprehensive General Liability, Property Damage, including Completed Operations
 - h. Independent Contractors (Contractor's Protective Liability)
 - i. Personal Injury (all insuring agreements), Deleting the Employee Exclusion

- j. If protection is under an umbrella policy, it shall not exclude any of the above items under the basic policy.
 - 4. City of Winchester shall be named by endorsement as Additional Insured.
- C. Contractor's Automobile Liability (bodily injury and property damage) shall be provided for the following limits:
 - 1. Combined single limit: 1,000,000 dollars each occurrence
 - 2. The Automobile Liability Insurance shall include the following coverage:
 - a. Comprehensive Form
 - b. Owned
 - c. Hired
 - d. Non-Owner
- D. Contractor's Workers Compensation Insurance as required by Federal, State, and Municipal Laws for the protection of all Contractor's employees working on or in connection with the Project, including broad form, all state and voluntary compensation coverage, and employer's liability coverage with the following limits:
 - 1. Bodily injury by accident 1,000,000 Dollars each accident
 - 2. Bodily injury by disease 1,000,000 Dollars policy limit
 - 3. Bodily injury by disease 1,000,000 Dollars for each employee
- E. All insurers shall be licensed to conduct business in the Commonwealth of Virginia and all insurance companies are required to have an A.M. Best Company financial rating of A- or better.
- F. Contractor shall require his insurance agent to certify on the insurance certificate that the insurance coverage specified by these specifications is fully in effect, both in scope and amount. If insurance coverage is effected with more than one company, the individual certificates shall identify the items of insurance which the individual companies cover. The insurance certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed unless at least a thirty (30) days prior written notice has been given to the Owner.
- G. Left Intentionally Blank
- H. Notification and Handling of an Insurance Claim:
 - 1. The general contractor on any City construction project shall be responsible for ensuring that all matters concerning the completion of an assigned project, including but not limited to handling of insurance claims by third parties arising as a result of the acts and omissions

of the general contractor or his subcontractors, are handled in a professional manner. To this end, the City expects the general contractor to act responsibly with regard to prompt payment of valid insurance claims and upon notice of a claim, the general contractor shall immediately notify the Owner's project manager, investigate and document the claim, and make a liability determination within ten (10) business days. Pending subrogation between the general contractor and/or sub-contractor and/or any insurance carrier will not be a cause for delay in payment of a valid claim. Default of this provision may result in retainage payments being withheld and jeopardize the general contractor's future bid opportunities with the City of Winchester.

11.3. WORKING HOURS - HOLIDAYS

Work under the Contract shall not be prosecuted on Sundays, or on legal holidays. Work hours (Monday – Friday) shall be from 7:00 a.m. until 6:00 p.m. If the Contractor wishes to prosecute any portion of the Work outside of the established work hours or on Sundays or legal holidays (actual or observed), he shall first obtain written permission from the Engineer. Such requests shall be submitted at least 48 hours in advance of the period proposed for such overtime work. For the purpose of this Contract, the legal holidays are identified as:

- New Year's Day
- Martin Luther King Day
- President's Day
- Apple Blossom Thursday & Friday
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Indigenous People's Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

11.4. PROGRESS PAYMENTS

- A. The basis for payments shall be the actual quantity of work completed, as determined in field by the Engineer.
- B. An amount equal to five percent (5%) of each progress payment shall be held from each payment as retainage.

11.5. MISCELLANEOUS OTHER CONDITIONS

- A. It shall be the responsibility of the Contractor to locate utilities in the field. Contractor shall give all utility companies that may have subsurface or surface utilities in the area adequate notice at least 48 hours in advance that the Contractor is to perform work in this area.
- B. The attention of the Contractor is drawn to the fact that the possibility exists of the Contractor encountering various water, chemical, electrical, or other lines. Contractor shall exercise extreme care before and during construction to locate and flag these items so as to avoid damage to existing lines. Should damage occur to an existing line, the Contractor shall repair the line at no cost to the Owner. Temporary support, adequate protection and maintenance of all underground and surface utility installations and structures, drains, and other obstructions encountered in the progress of the work shall be provided by the Contractor at his own expense.
- C. Contractor shall be responsible for the temporary removal and re-installation of structures including, but not limited, to piping, conduits, drains, that may interfere with the work. The cost of such work shall be included in the Bid for the project and shall not result in any additional cost to the Owner. It shall be the Contractor's responsibility to contact and obtain permission from various authorities having jurisdiction over such structures, prior to start of the work.
- D. Local drainage is not to be blocked. Shoulders, ditches, and drainage facilities shall be kept clear at all times and in condition satisfactory to the Engineer.
- E. Adequate barricades, construction signs, red lanterns and guards as required shall be placed and maintained during the course of the work, and until it is safe for the pedestrian and vehicular traffic to use the area. The rules and regulations of the Local and State and Federal authorities respecting safety provisions shall be observed.
- F. All acceptance and payment of work is subject to inspection by the City of Winchester.
- G. The Contractor shall be responsible to establish and maintain communications with the residents and business owners of the area affected by the construction. The purpose of this communication is to notify the residents and business owners of construction activities which affect them, and to coordinate accommodations for them during construction. The Contractor shall also be required to assist businesses and residents as necessary with access into or out of their property during the construction.

- H. Contractor and all sub-contractors shall obtain a City of Winchester Business License before beginning work.
- I. Contractor is responsible for correcting any damages caused to private property as a result of construction, at their own expense. Contractor shall be responsible for completing a video recording (DVD) of the entire project area within the City's right-of-way before construction begins and providing a copy of the DVD to the City. This recording must be completed before the mobilization fee is paid to the contractor. This recording will be the basis for help in determining any damages to private property that may occur during construction that the contractor may be responsible for.
- J. The Contractor shall be solely responsible for adhering to all OSHA requirements at all times during the construction of the project.
- K. The Contractor shall be solely responsible for protecting the newly poured sidewalks from vandalism (i.e. children writing names or words in the wet concrete) and shall be required to replace any concrete that is vandalized as directed by the City at the Contractor's expense.
- L. The Contractor shall be responsible to construct the new facilities and/or modify existing facilities to ensure positive drainage at all locations.
- M. High-early strength concrete shall be used on all driveway entrances.
- N. The Contractor shall be solely responsible for ensuring that all new sidewalks and ramps constructed meet all current ADA (American's with Disabilities Act) requirements.

*****END SPECIAL CONDITIONS*****

12. SCOPE OF WORK

12.1. CONTRACTOR RESPONSIBILITIES - MEASUREMENT AND PAYMENT

1. Contractor shall demolish and dispose of the existing building at the Frederick County landfill at a lump sum price. The City will pay for the tipping fees at the landfill.
2. Contractor shall construct the complete new building as shown on the drawings at a lump sum price.
3. Contractor shall construct the concrete stairs on the west side of the building as shown on the site plan drawing at a lump sum price. Price shall include the 12" CMU stair wall, guardrail on top of the stair wall, and handrail down the stairs.
4. Contractor shall construct 4" thick concrete sidewalk around the building. Exact locations and widths to be determined by the City in the field after the building is constructed. Construction specification, including measurement and payment can be found in the Construction Specifications in the [ATTACHMENTS](#).
5. Contractor shall complete all necessary grading to complete the project at a lump sum price. Price shall include excavating and disposal of any existing and excess soil material.
6. Contractor shall place 8" topsoil around the building at a price per square yard. The exact locations and areas shall be determined by the City after the building has been constructed. Prices shall include seeding. Construction specification, including measurement and payment can be found in the Construction Specifications in the [ATTACHMENTS](#).
7. Contractor shall remove and dispose of any rock encountered when excavating at a price per cubic yard. Construction specification, including measurement and payment can be found in the Construction Specifications in the [ATTACHMENTS](#).

12.2. CITY RESPONSIBILITIES

1. City will obtain building permits - permits will be placed in the name of the contractor.
2. City will extend and install all utilities to the building (water, sanitary sewer, and electric).
3. City will pay for any special inspections and materials testing that may be necessary. Contractor responsible for ensuring that all inspections are completed.
4. City will install construction entrance and access to the site.