



Request for Proposals
Electric Department SCADA System Upgrade
For
Martinsville Electrical Department
Martinsville, Virginia
Central Warehouse
990 Fishel Street
Martinsville, Virginia, 24112-3248

Purchasing Manager:
Karen Mays

Response Due Date:
Wednesday, December 13, 2017
2:00 pm (EDST)

TABLE OF CONTENTS

I	<u>PURPOSE AND INTENT</u>	1
	A. Scope of Contract	1
	B. Period of Contract	1
	C. Definitions	1
	D. Competition Intended	2
	E. Type of Contract	3
	F. Order of Preference	3
II	<u>SPECIFICATIONS OF RFP</u>	3
	A. Purpose	3
	B. Background Information	3
	C. Scope of Services	4
	D. General Requirements	4
	E. Category Specific Type of Work	7
	F. Insurance Checklist	10
	G. Communications About & Revisions of Specifications; Responsibilities of Offeror	11
	H. Method for Making Submission	12
	I. General Proposal Preparation Instructions	13
	J. Specific Proposal Preparation Instructions	14
	K. Offeror Certifications	16
III	<u>EVALUATION OF RFP</u>	17
	A. Required Elements of Proposal Package	17
	B. Evaluation Criteria	18
	C. Determining if Offeror is Responsible	19
	D. Proposal Acceptance Period	19
IV	<u>AWARD OF CONTRACT</u>	19
V	<u>FORM OF CONTRACT AND RELATED DOCUMENTS</u>	20
	A. Use of City Standard Form Contract	20
	B. Differing Terms in Offeror-Supplied Forms or Letters	20
VI	<u>MISCELLANEOUS</u>	20
	A. Authority of Agents	21
	B. Examination of Documents	21
	C. Nondiscrimination; Participation of Small, Women-Owned and Minority Owned Businesses	22
	D. Authority to Transact Business in Virginia	22
VII	<u>PROPOSAL SUBMISSION</u>	22
VIII	CERTIFICATIONS	23
	ATTACHMENT “A”	25
	TABLE OF CONTENTS FOR REQUIREMENTS	26

I. PURPOSE AND INTENT

A. Scope of Contract

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish contracts through competitive negotiation for Upgrading the City Electric Department's SCADA Master Station and Remote Terminal Unit's for the City of Martinsville, Virginia.

B. Period of Contract

The period of the Contract shall be for one (1) year from date of award and may be renewed for four (4) additional one (1) year periods.

C. Definitions

Capitalized terms that are defined in the Virginia Public Procurement Act (VPPA) or City Purchasing Policies have the same meanings in this Proposal as are given in that law or policy. Capitalized terms not defined in the VPPA or City Policy, but used in this Proposal have the following meanings, unless the context clearly requires otherwise. Undefined terms have their common meanings appropriate to their context.

1. Acceptable Surety. For any bond required under this RFP, an acceptable surety may be any of the following:
 - a. Corporate surety bond in form acceptable to the City; or
 - b. Irrevocable letter of credit in form acceptable to the City; or
 - c. Certified check or cash escrow.

The successful contractor's must furnish a performance and payment bond with a value of 100 percent (100%) of the contract amount.

2. City/Owner: The City of Martinsville, Virginia or its authorized agents. Unless the context clearly requires otherwise, such as for an affirmative vote of the elected body, the Mayor, City Manager, Purchasing Manager, or other designee of City Council may always act on behalf of the City. Under Virginia law, no employee or agent may bind the City unless he or she has actual authority to do so; the doctrine of apparent authority has no application to municipalities.
3. City Policy: The applicable provision contained in the City of Martinsville Purchasing Policies, as amended.
4. Contractor: The individual, company, firm, corporation, partnership or other entity to whom an award is made by the City.
5. Due Date: The date stated on the cover page of this Request for Proposal (RFP) for receipt of Proposals. There will not be a formal opening.
6. Insurance has the meaning given in Virginia Code § 38.2-100.
7. Nominal Value: Having a fair market value or potential fair market value of no more than five dollars (\$5.00). Something has potential value if it may produce value in the future. Examples of items with potential value include lottery tickets, stock in privately held companies, and business opportunities.

8. Non-Professional Services: All Services other than Professional Services, as identified in the VPPA.
9. Offeror: Any individual, company, firm, corporation, partnership or other entity submitting a proposal on solicitations issued by the Purchasing Agent and offering to enter into contracts with the City.
10. On Call: Services that a Contractor makes available at an Hourly Rate when needed by the City. No particular amount of work is guaranteed. If the Specifications do not give minimum response times or similar measures of performance, then it is implied that recognized industry standards or the Bidder's published standards apply, whichever is more beneficial to the City.
11. Procurement: The receipt of Goods, Services, Insurance or Construction by a public body from a nongovernmental source with payment from the public body or a third party.
12. Proof of Insurance: A copy of the relevant portions of the insurance declaration page, or its equivalent, showing continuing coverage at the required amounts.
13. Proposal: The submission by an Offeror indicating its understanding of the work to be performed, how it plans to do the work, its pricing structure for doing the work (if permitted by VPPA), and any other information required by this RFP.
14. Purchasing Manager: The head of the City Purchasing Division.
15. Request for Proposal (RFP): A request which is made to prospective suppliers (offerors) for their quotation on Goods, Services, Construction or Insurance desired by the City. The issuance of an RFP will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.
16. VPPA: The Virginia Public Procurement Act, Virginia Code §§ 2.2-4300 et seq.

D. COMPETITION INTENDED

It is the City's intent that this Request for Proposal (RFP) permits competition. It shall be the offeror's responsibility to advise the Purchasing Manager in writing if any language, requirements, specification, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in the RFP to a single source. Such notification must be received by the Purchasing Manager or appointed designee not later than seven (7) days prior to the Proposal due date.

The City has adopted an Affirmative Action and Minority and Women Business Enterprise Plan (M/WBE) Program. Firms submitting a proposal are attesting that they also have taken affirmative action to ensure equality of opportunity in all aspects of employment, and to utilize M/WBE suppliers of materials and/or labor.

The City reserves the right to reject any and all proposals, to waive any and all informalities, and to disregard all nonconforming or conditional proposals or counter proposals. In evaluating proposals, The City shall consider whether the proposals comply with the prescribed requirements, plus all alternates or options requested. The City reserves the right to include or exclude any option or alternative(s). If interviews are necessary,

interviews with selected respondents will be scheduled and conducted. If a proposal is to be awarded, it will be awarded to the lowest responsible, responsive respondent whose evaluation by City indicates that the award will be in the City's best interests.

E. TYPE OF CONTRACT

The City of Martinsville expects to award a fixed price Contract in the form of the City Standard Contract.

F. ORDER OF PREFERENCE

Procurement by the City is governed by the City of Martinsville Purchasing Policies, as amended, and the Virginia Public Procurement Act, Sections 2.2-4300 et seq. of the Code of Virginia, as amended. If an inconsistency exists between the Specifications of this RFP, the General Provisions, Contract, or other included document, or the Purchasing Policies and State Procurement Law, the inconsistency shall be resolved by giving precedence to the following documents in the following order:

1. Virginia Public Procurement Act, as amended,
2. City of Martinsville Purchasing Policies, as amended,
3. The Specifications of this Request for Proposal (Section II), except to the extent modified through negotiation permitted by VPPA,
4. The Contract,
5. The General Provisions of this Request for Proposal (Sections I, III-VI)

II. SPECIFICATIONS OF RFP

A. PURPOSE

The purpose of this RFP is to solicit sealed proposals to establish a contract(s) through competitive negotiations for a qualified firm(s) to provide a complete Windows based, or approved equal, SCADA Master Station Upgrade, including hardware and software, along with eight (8) Remote Terminal Unit Upgrades and related professional services to the City of Martinsville. The City of Martinsville may award multiple contracts as a result of this RFP. The City may give preference to a Window based system.

The services being solicited with this RFP have been divided up into two (2) categories of services:

1. SCADA Master Station Upgrade.
2. Remote Terminal Unit Upgrade.

Offerors do not have to provide all of the engineering services listed in the Scope of Work. Offerors will indicate which of the Categories described in the Scope of Work that they are offering as part of their submitted materials by completing and submitting the "Service Categories Being Offered Form" included as Attachment A of this RFP. All submissions will receive equal consideration with regards to the equipment and service(s) they offer, and the ability to offer multiple disciplines will not give advantage.

B. BACKGROUND INFORMATION

The City is a community of approximately 13,500 people, and encompasses 11 square miles. The SCADA Master Station and Remote Terminal Unit System Upgrade will

continue to provide the Electric Department the necessary assistance in operating and maintaining the City's Electrical Distribution System.

The City's current SCADA System consists of a QEI, Inc. redundant SCADA Master running on HP Itanium Servers utilizing VMS software and Quics protocols to the remote terminal Units. The remote terminal units consists of 6CPP6 processors with input/output boards such as 6SIP, 6AIP, and 6COP panels for connections to the substation equipment. It shall be the Vendors responsibility to familiarize themselves with the current operation of the existing SCADA System and the necessary programs which are currently running in order to provide a system which will replace or upgrade the existing SCADA System.

C. SCOPE OF SERVICES

1. General Scope of Work

The following scope of work items apply to ALL Vendors:

The City does not intend for the selected Vendor to design a new system to these specifications, but rather receive an RFP for a system of established and fielded design to replace the existing SCADA Master Station along with upgrading eight (8) RTUs to communicate with the new Master Station. Minor variances between the Vendor's equipment and the specification may be allowed, but any exceptions not explicitly noted may be cause for the Vendor's bid to be deemed unresponsive. All exceptions and/or clarifications shall be indicated by means of a separate, paragraph-by-paragraph compliance statement which will be included as part of the RFP.

2. SCADA Master Station Upgrade

The SCADA Master Station shall consist of central database and communication server(s) which maintain the core SCADA system database and communication software on a secure windows based server platform. The secure SCADA servers shall be industrial quality machines designed for highly reliable 24x7 operations in a demanding and mission-critical computing environment. SCADA servers shall be based on true 64 bit computers capable of providing simultaneous, real-time service to many communication channels and operator workstations. SCADA servers shall utilize an operating system widely used by mission critical installations with a high degree of immunity to computer malware and viruses such as a WINDOWS SERVER 2012, or approved equal. Operating systems with a history of malware, viruses, worms or those needed frequent patches and antivirus updates will not be considered acceptable for the central SCADA server(s).

The bidder will state in their bid the number of Operating System patches and Antivirus updates experienced by the proposed server during the last calendar year. As the user is interested in meeting NERC-CIP 002-009 requirements, the vendor should address how all operating system updates and antivirus updates will be identified, tested, implemented and documented in the proposed system. In accordance with NERC-CIP guidelines, automatic update of the operating system and antivirus profiles is not allowed or acceptable for the meeting of this requirement. As a minimum, the SCADA system servers shall incorporate the following minimum design features:

- Demonstrated 24x7 software reliability and high availability, disaster tolerance and performance scalability when running real-time applications.
- A true 64-bit operating system with a real-time pre-emptive scheduling mechanism and interrupt-driven I/O subsystem designed for minimal latency, and capable of handling complex real-time events with an exceedingly high, sustained I/O throughput.
- Redundant 10/100 baseT Ethernet LAN/WAN interface with TCP/IP communication using SSL or SSH encryption security.
- Capable of being configured with up to four (4) fully synchronized SCADA system servers, which support automatic, prioritized, fail-over to standby servers of all gateway/RTU communication, printer driver and operator console services with no manual assistance or intervention.

3. Operator Workstations

Four (4) operator workstations shall be provided. The SCADA System Operator Interface shall be pixel resolution graphic display software running on standard Windows PCs with a current MS Windows operating system. All PC Workstations provided by the vendor shall be supplied with IEEE 802.3/Ethernet compliant 100baseT LAN interface, and the SCADA application software shall be capable of supporting multiple operator workstations on industry Windows platforms deployed across the corporate LAN/WAN. Connections between the Windows operator consoles and the central SCADA server shall be via any authorized TCP/IP connection (Ethernet, Internet, etc.). Operator workstation application software shall be designed to optimize performance and minimize network traffic by maintaining a local database on each Windows workstation. The operator HMI will adaptively update only the value of data points that are currently being displayed on that workstation in order to minimize network traffic.

The operator workstation monitors shall be high resolution, 32 inch, LCD flat panel color monitors with 2560 by 1440 minimum resolution and 32 bit colors. Workstations shall include a full alpha numeric keyboard with a minimum of 12 special function keys and a separate numeric key set and a 2 button mouse cursor control device.

Each operator workstation at a minimum shall include 3.2 GHz Dual Core CPU, 4 GB RAM, 500 GB hard drive, 1 GB graphics accelerator, DVD-CDROM, 10/100baseT network interface card, 32" LCD flat panel display, and the current Windows operating system software.

4. Remote Terminal Unit Upgrade

Vendor shall, at a minimum, include a DNP Scan Task in the base quotation for TCP/IP communications to the RTU. RTU is currently running QUICS protocol. Vendor shall convert the existing database, both at the Master and RTU, for successful communications from the Master to the RTU utilizing DNP over TCP/IP, single mode fiber and shall be included in the base bid. Any extra hardware necessary for the RTU to communicate with the Master to complete the conversion shall be included in the base bid.

D. GENERAL REQUIREMENTS

1. Vendor's Responsibilities

The Vendor shall be responsible for:

- a. Design, document and deliver a fully integrated SCADA system, with all hardware and software required to meet this specification.
- b. Provide the Purchaser with documentation for review and approval including: equipment lists, hardware and software design, system drawings, hardware and software manuals and acceptance test procedures.
- c. Provide Purchaser with detailed information on the requirements of the equipment to be supplied: space, cabling, environmental controls, power and communication circuits.
- d. Support Purchaser in developing an implementation plan covering installation, testing and startup of the system.
- e. Provide training courses covering Master Station database generation, and operation; and remote gateway database configuration and maintenance. Make courses available either at the Vendor's or the Purchaser's facilities.
- f. Provide technical support during the Purchaser's construction of the Master Station and/or RTU configuration.
- g. Perform a customer-witnessed, ISO 9002:2008 certified, site acceptance test, with all supplied equipment staged into an integrated functioning system.
- h. Provide necessary onsite technical assistance as proposed during system start-up, commissioning and testing.
- i. Provide maintenance support and spare parts as proposed throughout the warranty period.
- j. The Vendor shall provide with their proposal a detailed description of the proposed system's architecture and operational features, as well as five (5) references of installed and operational systems similar to the one proposed, including contact names, phone numbers and email addresses. (In Virginia has been deleted)

2. City's Responsibilities

The City shall be responsible for:

- a. Provide timely technical review of the Vendor's approval submittals: equipment lists, hardware and software designs, drawings, documentation and acceptance test procedures.
- b. Develop an implementation plan covering their portion of installation, testing and startup of the system.
- c. Provide space, environmental controls, and power and communication circuits sufficient to accommodate the Master Station and Substation equipment supplied by the Vendor.
- d. Provide the necessary assistance in order to construct the Master Station database and configure the substation gateway databases.

- e. Provide all required substation field wiring and equipment external to any remote gateways.
- f. Provide assistance to install all Vendors supplied equipment, and connect all substation field wiring from controlled and monitored equipment to the Vendor supplied substation gateway terminations.
- g. Performance of onsite acceptance testing with assistance from the Vendor.

E. CATEGORY SPECIFIC TYPE OF WORK

In addition to the General Scope of Work and General Requirements outlined above, the following apply to Vendors relevant to the service category for which a proposal is submitted:

1. **Database Conversion**

The Vendor shall be responsible for converting the Purchaser's existing database both at the Meter and RTU levels and shall be included as part of the bid. It is the City's intent to be able to generate and enter the system database points and single line diagram after receipt of the necessary training from vendor instructors. Training shall be scheduled at an appropriate time in the delivery cycle. Final acceptance of the system shall be based on a test database, entered by the Vendor, which shall be configured to demonstrate that all delivered equipment, all equipment interconnections and all remote station communication lines are functioning. The Vendor's maintenance contract shall clearly define the level of support that will be offered to the owner during entry and testing of the owner's database.

2. **Base Outage Management System**

The SCADA Vendor shall include as part of the base proposal a Base Outage Management System. The proposed OMS software shall be designed to run on the SCADA host computers, with a user interface built into the operator interface. The OMS shall be fully redundant along with the rest of the redundant SCADA system. The Base Outage Management system shall support the following:

- Automated Data Entry
- Call Analysis
- Callbacks
- IVR and Caller ID
- Switch Order & guarantees
- SCADA Event and Operations
- AMI

3. **GIS Data Evaluation Services:**

The SCADA Vendor shall be able to provide GIS data importing & modeling services for applications in ADMS platform such as OMS, etc. By importing their GIS data, the City shall have the advantage of integrating their network topology into the Vendor's connectivity model and knowing where all their customers and devices are located inside their real-time ADMS for improved operational efficiency. GIS and System Engineers shall help the City through the entire process to ensure a smooth integration of the GIS import.

GIS Services shall include:

- Initial analysis of the utility's entire map to ensure that the GIS data is ready to be imported to the ADMS System.

4. **Warranty & Support**

The SCADA Vendor's Customer Service Department shall be the Owner's single **point of contact for all system maintenance and shall follow an ISO 9001:2008 certified procedure to maintain the highest level of service quality. All customer contacts shall be entered into a computerized tracking system which is closely managed and monitored for quick and effective responsiveness. The Vendor shall** offer maintenance contract options including both hardware and software maintenance agreements with telephone/TCP/IP link based technical support, on-site technical assistance and printed circuit board repair. Vendor shall describe their Customer Service Support Team in detail and shall be included with the RFP.

a. **Master Station Server Hardware Maintenance Contract**

The Master Station SCADA hardware shall carry a five-year, (not including the first year) renewable maintenance contract to be executed by the SCADA Vendor. The Master Station server hardware shall consist of "open system" architecture with all hardware and operating system software manufactured by a nationally recognized computer supplier who can support the system with factory trained product specialist providing next day, on-site response from a local service center. The Vendor shall state the terms of the maintenance contract included in the master price and provide the address and telephone number of the nearest service center. Warranty upgrades should be available to provide same day 4-hour response or 24-hour/day, 7-days-a-week.

As a minimum, the SCADA Master Station Server hardware maintenance contract shall include the following services:

- On call center for questions and repair services.
- On-site repairs provided by the server manufacturer's factory trained product specialists.
- Response within 4 hours, Monday through Friday, 8 a.m. to 5 p.m.
- Warranty upgrades should be available to provide same day, 4-hour response, or 24-hour/day, 7-days-a-week.

b. **Master Station SCADA Software Maintenance Contract**

The Master Station SCADA software shall carry a five-year, (not including the first year) renewable maintenance contract to be executed by the SCADA Vendor. Third party maintenance contracts for Master Station software products will not be considered. The proposed Master Station shall include a secured, diagnostic connection which allows the Vendor's service technicians full access to the SCADA system to perform monitoring, diagnostic and system configuration services and to install and/or update SCADA software modules. The SCADA Vendor shall maintain a full time customer service staff capable of providing same day technical assistance. The Vendor shall submit, with the technical bid, a description of the software capability of the company including resumes of the customer service and software development personnel that will be associated with this project.

As a minimum, the Master Station software maintenance contract proposed shall include the following:

- On-call center for questions and repair services.
- Minimum of four (4) hour response.
- Unlimited telephone support and correction of any SCADA software problems.
- SCADA software Bug-fixes and upgrades as required.
- Technical assistance in the use of the SCADA system database editors.
- System restoration services, if required, following a hardware repair.
- A discounted rate for any required site-technical services.
- Maintenance agreement upgrades should be available to provide same day, 4-hour response or 24 hour/day, 7-day-a-week response.

c. Remote Terminal Unit Hardware Maintenance Contract

The RTU hardware shall carry a five-year, (not including the first year) renewable maintenance contract to be executed by the RTU Vendor. The Vendor shall state the terms of the maintenance contract included in the base price and provide the address and telephone number of the nearest service center. Warranty upgrades should be available to provide same day 4-hour response or 24-hour/day, 7-days-a-week.

As a minimum, the RTU hardware maintenance contract shall include the following services:

- A single point of contact to coordinate all repair services.
- On-site repairs provided by the server manufacturer's factory trained product specialists.
- Response within 4 hours, Monday through Friday, 8 a.m. to 5 p.m.
- Warranty upgrades should be available to provide same day, 4-hour response, or 24-hour/day, 7-days-a-week.

d. Remote Terminal Unit Software Maintenance Contract

The RTU software shall carry a five-year, (not including the first year) renewable software maintenance contract to be executed by the RTU Vendor. Third party maintenance contracts for RTU software products will not be considered. The SCADA Vendor shall maintain a full-time customer service staff capable of providing same day technical assistance. The Vendor shall submit, with the technical bid, a description of the software capability of the company including resumes of the customer service and software development personnel that will be associated with this project.

5. Testing and Training

One week of factory training shall be included in the base bid. This could be substituted with one week of site training including travel and living expenses.

Five days of commissioning shall be included in the base price including travel and living expenses. Should commissioning take only a couple of the days then the remaining time shall be spent with the customer to optimize their system. System training shall be done during the following week or at a time to best suited with the customer's schedule.

Five years of attendance at the Vendor's User's Conference shall be included in the base bid for four people.

6. Additional Options

As part of the proposal the Vendor shall list additional SCADA software that may be included as part of the base proposal for the City to review.

F. INSURANCE CHECKLIST

The minimum limits of the Contractor's Liability coverage shall be as provided in this section.

Insurance may be obtained from a single insurance company and policy or from multiple companies and policies. With all types of required insurance except Worker's Compensation, the Contractor must add the City as an additional insured. Proof of insurance showing the City as an additional insured are not required at the Proposal stage but are a condition precedent to the award of a Contract.

The Contractor shall provide a signed Proof of Insurance citing the contract number and such endorsements as prescribed herein, and shall have it filed with the Purchasing Manager before a Contract is awarded.

No change, cancellation, or non-renewal shall be made in any insurance coverage without a thirty (30) day written notice to the Purchasing Manager. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contract to deliver a new and valid Proof of Insurance will result in suspension of all payments until the new certificate is furnished.

- 1. Worker's Compensation REQUIRED NOT REQUIRED
 - a. Coverage to be in compliance with the Workers Compensation Law of the Commonwealth of Virginia.
 - b. State.....Statutory
 - c. Applicable Federal.....Statutory
 - d. Employer's Liability.....\$100,000
 - e. Benefits Required by Union Labor Contractors As Applicable
- 2. Commercial General Liability (coverage against losses resulting in bodily injury, personal injury and property damage caused by or arising out of the contractor's operations under the contract; including Contractual Liability; Products and Completed Operations; Premises Operations):

REQUIRED NOT REQUIRED

- a. Combined Single Limit:
 - \$3,000,000.....Each Occurrence, in primary policy or through use of Umbrella or Excess Limits.
 - If policy contains a general aggregate limit, it shall apply separately to each project.

b. Products and Completed Operations Insurance shall be maintained for a minimum period of one (1) year after final payment, and the Contractor shall continue to provide evidence of such coverage to the City on an annual basis.

3. Automobile Liability (Owned, Non-Owned, Hired)

REQUIRED NOT REQUIRED

a. \$3,000,000..... Each Accident (Bodily Injury and Property Damage) in primary policy or through use of Umbrella or Excess Limits.

4. Professional Liability/Errors and Omissions:

REQUIRED NOT REQUIRED

Minimum Limits:

\$3,000,000..... Each Claim

**G. COMMUNICATIONS ABOUT & REVISION OF SPECIFICATIONS;
RESPONSIBILITY OF OFFEROR**

1. An Offeror may submit questions and comments regarding this Solicitation only to the Purchasing Manager by email to kmays@ci.martinsville.va.us. To receive an answer, the Offeror must submit all questions and comments no later than seven (7) days before the due date. The City Manager, Purchasing Manager, or Purchasing Manager’s designee may also issue clarifications or modifications of the terms of the Solicitation even if no Offeror requests it. The inquiry will be answered and returned to the vendor, and the City will determine if an addendum is necessary.
2. Only the City Manager, Purchasing Manager, or Purchasing Manager’s designee may revise the terms of the Solicitation. If the City revises the terms of the Solicitation, it will do so in the form of an addendum to the Request for Proposal posted on the City of Martinsville website at <http://www.martinsville-va.gov/departments/purchasing/bid-documents>. The addendum will be sent to solicited vendors. Each offeror has the responsibility to insure it has any addenda that have been issued in connection with this RFP. The Offeror will not rely on any information provided orally, or from anyone other than the Purchasing Manager.
3. Each Offeror bears responsibility for thoroughly examining this RFP in its entirety. If an Offeror has any questions or comments regarding the proper meaning or intent of any aspect of the RFP or finds discrepancies in the plans and/or specifications, then it shall submit all such questions and comments in writing to the Purchasing Manager.
4. By submitting an offer in response to this RFP, the Offeror represents that it has thoroughly examined this RFP and all its attachments and incorporated documents, and that it has submitted any and all questions and comments it may have regarding the meaning or interpretation of this RFP to the City in the manner prescribed herein.

H. METHOD FOR MAKING SUBMISSION

1. The Offeror shall submit one (1) original and two (2) copies of their proposal along with one (1) electronic copy in the form of a thumb drive or CD to the Purchasing Department. Offerors shall submit with their proposal all pages of the completed Proposal Submission Form herein by the due date. The Offeror shall make no other distribution of the proposal. Sealed proposals shall be submitted to:

UPS, FedEx, Hand Delivered
City of Purchasing Department
Central Warehouse
990 Fishel Street
Martinsville, VA 24112-3248
Attn: Karen Mays

Postal Mail
City Purchasing Department
Attn: Karen Mays
P O Box 1112
Martinsville, VA 24114-1112

No later than 2:00 PM local time on Wednesday, December 13, 2017.

The proposal submissions with all the forms must be returned in a sealed envelope or packaged and identified as follows:

From:

_____ Name of Offeror	_____ Due Date	_____ Due Time
_____ Street / Box Number	_____ RFP Title	_____ RFP Number
_____ City	_____ State / Zip Code	_____ Purchasing Manager

Proposals sent via express delivery service should be sealed in an envelope inside the express container. The Offerors assumes the risk that an envelope not properly marked will be mistakenly opened, and thus rendered ineligible for consideration. No responsibility shall attach to the City for the premature opening of a proposal not properly addressed and identified as specified herein. The City will not make any adjustments to the proposal based on additions or deletions on the outside of the envelope. Faxed or emailed proposals are not acceptable. Electronic copy in the form of an email copy of the proposal or a thumb drive or CD is allowed. Your sealed proposal must meet the deadline of 12/13/17 2:00 p.m. even if the electronic copy has been sent.

2. **Determination of Deadline**

The official time used in the receipt of Proposals is local Verizon time. Each Offeror must deliver its proposal before the minute stated on the cover page of this Request for Proposal. For example, a due time of 2:30 means that a proposal delivered at 2:29 is timely and one delivered at 2:30 is late.

3. Place for Submission

Proposals must be received at the place stated on the cover page of the RFP. Offerors who use a delivery company, U.S. Mail, or courier bear the risk that the proposal may not be received at the correct location by the deadline.

4. Extension of Deadline

Before the deadline passes, or if for any reason, or if the City receives no proposals by the due date, the City may extend the date and time for receipt of proposals or change the location of the receipt of proposals if it believes it is necessary and in the best interest of the City. If that happens, Offerors will be notified of the new date and time or new location and proposals already received will not be opened until the new date and time. If the City of Martinsville (removed Public Works Facility Building B) is closed unexpectedly on a proposal due date, the proposals will be opened at the same time and place the next business day that the City and Building are open, or else notice will be provided by addendum of a new due date, time, and place.

5. Process for Receipt of Proposals

The Purchasing Manager shall receive proposals and read aloud the names of the Offerors who submitted proposals. Only the names will be read aloud. There will not be a formal opening. Thereafter, the provision on Examination of Documents herein applies to the release of proposal data.

I. GENERAL PROPOSAL PREPARATION INSTRUCTIONS

1. All information requested should be submitted. Failure to submit all information requested may result in the City requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by the City. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
2. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
3. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
4. All pages of the Proposal should be printed on 8.5 x 11' paper, single spaced (1.5 or double spaced preferred), with type no smaller than 11-point font size.
5. Offers are required to submit (1) original and two (2) copies of each proposal. The original shall be marked as such. Provide an electronic copy in the form of a thumb drive or CD to the Purchasing Department (DJ says he would like this)
6. Information which the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not

organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

7. Ownership of all data, materials and documentation originated and prepared for the City pursuant to the RFP shall belong exclusively to the City and be subjected to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to the public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Section 2.2-4342-F of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reason why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitutes trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal. The City is not responsible for any expenses incurred by an Offeror in preparing and submitting a proposal.

J. SPECIFIC PROPOSAL PREPARATION INSTRUCTIONS

Proposals should be as thorough and detailed as possible so that the City may properly evaluate the capabilities of the Offeror to provide the required Goods, Services, Construction or Insurance. Offerors are required to submit the following items for a complete proposal:

Title

Table of Contents

Tab 1: Signed offer and RFP Agenda

- a. Proposal Submission Form with all associated costs. (removed Pages 32 – 33).
- b. Completed “Service Categories Being Offered Form”, Attachment “A”

Tab 2: Executive Summary / Cover Letter (Maximum 2 Pages)

- a. A cover letter identifying the offeror and the proposal package being submitted.
- b. The offeror’s representative shall be identified by name, title, address, and telephone number, fax number, and e-mail account.
- c. A brief history of the firm, including the number of years in business and current size. State the location of the office from which the work is to be performed.
- d. Offeror’s understanding of services sought through this RFP for the service category being offered and a description of the Offeror’s underlying philosophy and approach to providing the services.

Tab 3: Qualifications and Credentials

(Maximum two (2) pages for General Scope, plus two (2) pages for each category offered)

- a. Offeror’s qualifications – Describe the Offeror’s qualification and ability to fulfill the work that is required, documented success and direct experience in providing similar services. Include the number of years providing services specific to the subject matter

of this RFP and the category being offered, and the number of employees (full time and part time). Describe other relevant professional experience.

- b. Proposed Team - Identify key personnel and associates (subconsultants and/or partners) including but not limited to those performing the services and involved in the quality assurance/control process. Clearly identify project managers who may be responsible for tasks assigned by the city under this contract. Provide names, credentials, qualifications, direct work experience, and description of proposed work responsibilities. Resumes and copies of licenses and certification may be included in the Appendix (Tab 7), but not in this section (Tab 3).
- c. Number of Projects and Contracts – Give a summary of projects/contracts in which the Proposed team is currently involved. Include dollar amounts, scope of work, role of Proposed Team, and length of contracts.
- d. Point of Contact – Identify a primary point of contact (i.e. contract or project manager) who will work with the City during the term of the contract.
- e. Subconsultants and/or Partners – Identify all Partners and proposed subconsultants to be engaged by Offeror for any resultant task order. Describe relevant professional experience and capabilities to perform services under this RFP. Describe previous professional experience and history the Offeror has had with the proposed subconsultant and/or partner. Resumes and copies of licenses and certifications may be included in Appendix (Tab 7) but not in this section (Tab 3).
- f. Organizational Chart – Provide organizational chart with names and positions of staff. Highlight Proposed Team staff members, and include Partner Firm(s) and/or subconsultants.

Tab 4: Related Project Examples (Maximum 12 Pages)

- a. Provide a brief synopsis of successful projects undertaken by the Offeror in the last ten years which best reflect the Offeror’s understanding of the City’s needs and services. In selecting examples, the Offeror should consider projects of similar size, scope, and complexity as projects included in the City’s Capital Improvement Plan, or projects that clearly demonstrate the skills, qualifications, experience, and services sought. Please submit this information for the prime engineer and each proposed sub-consultant(s), team member of a consortium, or joint venture.
- b. For each project/contract provide the following information:
 - i. Name of project;
 - ii. Engineer’s Cost Estimate;
 - iii. Bid amount of project; iv. Firm’s contract amount;
 - v. Dollar amount of cost overrun or under-run.
 - vi. Summary of scope of work, including when the design was completed and where it is located;
 - vii. Name, address, and telephone number of client’s representative responsible for administering the contract;
 - viii. Number of Change Orders.
- c. Briefly state how the Offeror addressed project challenges similar to those typically encountered on City projects such as work in urban area, public process/involvement, constructability and budget and schedule constraints.

- d. Optional: Offerors may include up to four (4) photos per project in this Tab. Additional photos may be included in the Appendix in Tab 7.

Tab 5: Quality Assurance/Quality Control (Maximum 2 Pages)

- a. Include an “executive summary” overview of the Offeror’s Quality Assurance/Quality Control process including the date adopted, procedures, evaluation criteria, and how the Offeror’s organization will assure conformance with the contract and tasks to be assigned under the contract. The offeror may include and reference relevant sample forms and checklists in the Appendix; however, a detailed Quality Assurance/Quality Control Plan will be required with the award of a contract (See Section 6, of General Requirements on Page 13).
- b. Describe the approach to monitoring contract expenses and man-hours to avoid contract cost overruns, and discuss the ability of the firm to track and meet schedules.
- c. Identify who will be checking and coordinating the documents; how often the documents will be checked; and, the proposed method of documenting quality assurance.

Tab 6: Client References (Maximum 2 Pages)

- a. Include a minimum of four (4) references for whom the Offeror has performed similar work to that described herein. Do not include the City of Martinsville as a reference.
- b. For each reference, describe the services provided, the date of the beginning of the contract, the length of the contract, dollar value of contract, and a contact person (with name, direct telephone number, title and email address).

Tab 7: Appendices (Maximum 10 Pages)

- a. Offerors may include documents in the Appendix that were referenced in other sections of the Proposal Guidelines. Material in the appendices section is limited to:
 - Resumes and copies of licenses related to Tab 3;
 - Additional project photos related to Tab 4 with a maximum of 5 pages per project; and
 - Areas not described in this RFP, but which the offeror believes to be essential to the performance and completion of these services may be addressed in the Appendices.

K. OFFEROR CERTIFICATIONS

1. The Offeror shall certify, through its submission and signature on the proposals, that the following statements are true and not misleading:
 - a. That the submitted Proposal is made without any kickbacks or inducements or any prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same Goods, Services, Insurance or Construction, and is in all respects fair and without collusion or fraud.
 - b. That it is not currently debarred by the Federal Government, Commonwealth of Virginia or the City from submitting proposals on contracts for the Goods, Services,

Construction or Insurance that is the subject of this RFP, nor is the Offeror an agent of any person or entity that is currently so debarred.

- c. That it has not offered or 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 or minimal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- d. That to the best of its knowledge no City official or employee having official responsibility for this RFP or member of his or her immediate family has received or will receive any financial benefit of more than Nominal Value or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the proposal or as soon thereafter as it appears that such a benefit will be received.
- e. That it has submitted a single Proposal. For purposes of this provision, the term "Offeror" includes all departments and divisions of a Business and all its Affiliates.
- f. That it is satisfied, from its own investigation of the conditions to be met, that it fully understands its obligations if the City awards it a Contract, and that it will not have any claim or right to cancellation or relief from the Contract because of any misunderstanding or lack of information.

2. Duty to Supplement

If the Offeror becomes aware of any information which makes any part of the Offeror Certifications no longer accurate or complete or reveals that any part of my previously submitted information is misleading, the Offeror will immediately bring that information to the attention of the Purchasing Manager.

3. Penalty for False Certification

The City may declare an Offeror to be non-Responsible if the City discovers that the Offeror's certification contains any materially false statement. The City may also void any resulting Contract or reduce the payment under the terms of the Contract by the value of the benefit or potential benefit conferred on a City official or employee contrary to these terms.

III. EVALUATION OF RFP

A. Required Elements of Proposal Package

To be considered, a Proposal must contain the completed Proposal Submission Form(s) and any other documents, samples, or information required by the terms of the RFP. Any Offeror which submits a proposal agrees that such proposal becomes the property of the City and all costs incurred for its preparation are the responsibility of the Offeror.

1. Required permits, bonds and licenses:

- a. By submitting a Proposal, Offeror represents that it will have all necessary federal, state and local permits and all necessary licenses, including licenses to use intellectual or real property. The date that Offeror shall

- have the necessary licenses and permits is the date of performance unless otherwise required by law.
- b. The successful vendor is required to furnish a performance and payment bond with a value of 100 percent of the contract amount within fourteen (14) days after notification of intent to award. If a Offeror fails to obtain an Acceptable Surety for the required performance or payment bonds within the allotted time, the City may reject the Offeror's proposal.
 - c. All firms or individuals doing business in the City shall obtain a business license if required by the Code of the City of Martinsville, Business, Professional and Occupational Licensing (BPOL) Tax, as amended. Questions concerning the BPOL Tax should be directed to the Commissioner of the Revenue 703-257-8214.

2. Acknowledgment of receipt of all addenda:

The Offeror must acknowledge receipt of addenda on the Proposal Submission Form unless such failure to acknowledge constitutes an Informality.

B. EVALUATION CRITERIA

- 1. Proposals will be evaluated by the City using the following criteria:
 - a. Ability to provide a Windows based SCADA Master Station & Remote Terminals, or approved equal, as described in this RFP.
 - b. Costs Associated with the SCADA Upgrade and Remote Terminal units.
 - c. Maintenance Agreement with Customer Support, and associated costs. Give details about your customer support team and hours of availability.
 - d. Firm/Teams Experience and Performance in Similar Type of Services (Expertise, experience and qualification of team with respect to similar services and past record of performance on contracts with respect to such factors as control costs, quality of work and ability to meet schedules).
 - e. Proximity to or familiarity with the area in which the work is located.
 - f. Qualifications of Project manager for the contact (Expertise, experience and qualifications in project management as related to the scope of services).
 - g. Personnel (Experience, expertise, qualifications, professional integrity and competence and reputation of personnel)
 - h. Organizational Capability (Ability to complete work in a timely manner, size of firm(s) relative to size of potential projects, proposed project staff resources, proposed use of sub consultants).
 - i. Timeline for this installation.
Freight Terms: Quote FOB Central Warehouse, 990 Fishel Street, Martinsville, Va. 24112. Freight prepaid & allowed.
 - j. Warranty details.

k. Payment Terms.

C. DETERMINING IF OFFEROR IS RESPONSIBLE

1. Award only to a “Responsible Offeror”

The City will only award a Contract to an Offeror that, through evidence submitted or information available to the City, has shown that it has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance. Prequalification by an entity other than the City is not relevant to this determination.

2. Additional Information

If the City requests it, the Offeror must present, within two business days, evidence satisfactory to the City of the Offeror’s ability to perform the Contract and possession of necessary facilities, pecuniary resources, and adequate insurance to comply with the terms of this RFP and any resulting Contract. The City reserves the right to inspect the Offeror’s physical facilities and conduct additional investigation prior to award to satisfy questions regarding the Offeror’s capabilities.

3. Offeror in Default

No Proposal will be accepted from or Contract awarded to any Offeror that is in arrears, or is in default to the City upon any debt, or that is a defaulter as surety or otherwise upon any obligation to the City, until all such debts are paid.

D. PROPOSAL ACCEPTANCE PERIOD

Unless the Offeror withdraws its proposal as allowed under the terms of this RFP or agrees to one or more extensions, the proposal is binding upon the Offeror for ninety (90) calendar days following the RFP Due Date. Offeror further agrees and understands that (except to the extent of the requirement to indemnify the City for costs incurred in protection of the Offeror’s confidential information) there is no binding agreement, no contractual relationship, no understanding nor mutual assent until a Contract is executed and exchanged by and between the Offeror and the City. The following City agents have general authority to sign and execute a Contract on behalf of the City, to the extent authorized by the City, the City Manager and Electric Director. Unless authorized by a recorded affirmative vote of City Council, no other City officer or employee is authorized to execute Contracts, and no Contract executed by an unauthorized officer is binding on the City.

IV. AWARD OF CONTRACT

A. Committee will evaluate each proposal on the basis of the evaluation criteria provided in the RFP.

The Committee shall engage in individual discussions with Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis the proposal submitted, on costs, and professional competence to provide the required service. Repetitive informal interviews may be permissible. Such Offerors shall be encouraged to elaborate on their proposal, stating qualifications and performance data or staff expertise pertinent to the proposed project, customer support, as well as alternative concepts. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of the informal interviews,

on the basis of evaluation criteria published in the Request for Proposal and all information developed in the selection process to this point, the City shall select the company as determined to be the most advantageous to the City of Martinsville and will make an award.

Upon the award or the announcement of the decision to award a contract as a result of this RFP, the Purchasing Division will post Notice of the Intent to Award or Notice of Award on the bulletin board outside the Purchasing Department, located at 990 Fishel Street, Martinsville, Va. The City will also send a notice to those submitting a proposal once a decision has been made.

V. **FORM OF CONTRACT AND RELATED DOCUMENTS**

A. **Use of City Standard Form Contract**

Unless otherwise specified in this Request for Proposal, use of the City Standard Form Contract attached hereto is mandatory.

B. **Differing Terms in Offeror-Supplied Forms or Letters**

No term in an Offeror-supplied form or letter may alter, contradict, or supersede the terms in this Solicitation and the resulting Contract.

VI. **MISCELLANEOUS**

A. **Authority of Agents**

1. **Offeror's Agent**

Each Proposal, and any Contract, must be signed by a person authorized to bind the Offeror to a valid Contract with the City. For a sole proprietorship, the principal may sign. The City may require that any agent submit a power of attorney or other appropriate documentation showing the authority of the agent to act on the Contractor's behalf. If, whether such proof of agency has been demanded or not, it later appears that the signatory was not authorized to act, the City may declare the Contract void if it is in its best interest to do so.

2. **City's Agent**

The Purchasing Manager has the final responsibility and full authority for issuance of requests for proposals, negotiations, placing and modifying invitations, requests, purchase orders and recommendations of award issued by and for the City of Martinsville. Where permitted by City Policy, the City Manager and Electric Director may execute Contracts in the name of the City. (Remove these words No other City officer or employee is). The City Manager, Electric Director and Purchasing Manager are authorized to add to, vary, or waive terms of the RFP, place purchase orders, enter into purchase negotiations or contracts, or in any way obligate the City for indebtedness. Any purchase order or contract made without authority is void ab initio. The City will not honor or ratify any void action of its employees or agents.

3. **Non-appropriation of Funds**

a. The authority of agents for the City is limited by appropriations. In subsequent fiscal years, the City may reduce or eliminate appropriations

related to the procurement which is the subject of this RFP without liability to the Contractor or any third party.

- b. By issuing a Purchase Order, the City represents that sufficient appropriations have been made to meet the cost of the procurement in the current fiscal year.

B. EXAMINATION OF DOCUMENTS

Except as provided herein, all proceedings, records, Contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen or representative of the news media in accordance with the Virginia Freedom of Information Act.

1. Estimates

Cost estimates relating to a proposed transaction prepared by or for a public body shall not be open to public inspection.

2. Prior to Award

Any Offeror upon request shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, unless the City decides not to accept any of the proposals and to reissue the RFP. Otherwise, proposal records shall be open to public inspection only after award of the Contract. Any inspection of Procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

3. Trade Secrets

The City will only protect from public disclosure a Offeror's trade secrets or proprietary information submitted in connection with a procurement transaction if the Offeror invokes the protection of Virginia Code § 2.2-4342 in writing prior to or upon submission of the data or other materials, identifies the data or other materials to be protected by some distinct method, and states the reasons why protection is necessary. By asserting such trade secret or proprietary information privilege, the Offer agrees to indemnify the City for any costs, including attorney's fees, incurred defending that Offeror's information in any action under the Virginia Freedom of Information Act.

C. NONDISCRIMINATION; PARTICIPATION OF SMALL, WOMEN-OWNED AND MINORITY OWNED BUSINESSES

1. In General

The City does not discriminate against Offerors on the basis of race, religion, color, sex, national origin, age or disability, nor does it discriminate against faith-based organizations on the basis of the organization's religious character or impose conditions that restrict the religious character of the faith-based organization, except as permitted or required by law, or impair, diminish, or discourage the exercise of religious freedom by the recipients of such Goods, Services or disbursements. Any Offeror believing that it or another Offeror has been discriminated against on that basis should immediately make the Purchasing Manager aware of the basis for that belief.

2. Opt-out rights with faith-based organizations

If an award of Contract is made to a faith-based organization, and an individual who applies for or receives Goods, Services, or disbursements provided pursuant to that 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 City shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent Goods or Services, or disbursement from an alternative provider.

3. Facilitating disadvantaged businesses

It is the policy of the City to facilitate the participation of Small Businesses and Minority-Owned and Women-Owned Businesses in all aspects of procurement to the maximum extent feasible. If awarded a contract, the Offeror will use its best efforts to carry out this policy and insure that Small Businesses and businesses owned by women and minorities have the maximum practicable opportunity to compete for subcontract work, consistent with the efficient performance of this contract. If federal grant money is to be used to pay for this Procurement, then the specifications will indicate the extent of any specific participation required for Small Businesses and businesses owned by women and minorities.

D. AUTHORITY TO TRANACT BUSINESS IN VIRGINIA

Pursuant to Virginia Code §2.2-4311.2, an 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 proposal the identification number issued to it by the State Corporation Commission (“SCC”). Any 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 proposal a statement describing why the Offeror is not required to be so authorized. Any Offeror described herein that fails to provide the required information shall 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>. Offerors should consult the Code of Virginia for more information.

VII. PROPOSAL SUBMISSION

Pricing of Equipment and Services is requested with this RFP from the vendor and should include all supporting documentation including pricing for all options.

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

I certify that I received and reviewed the following Addenda to this Proposal and have included their provisions in this Proposal:

<u>Number</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

Please complete the following by checking the appropriate line that applies and providing the requested information.

- A. _____ Offeror is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such Offeror’s Identification Number issued to it by the SCC is _____

- B. _____ Offeror is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such Offeror’s Identification Number issued to it by the SCC is _____.

- C. Offeror does not have an Identification Number issued by the SCC and such Offeror is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

VIII: CERTIFICATIONS

This RFP is subject to the provisions of §§ 2.2-3100 et seq. of the Virginia Code, the Virginia State and Local Government Conflict of Interests Act, and Sections 2.2-4300 et seq. of the Code, the Virginia Public Procurement Act (VPPA).

By my signature on this form, I certify on behalf of the Offeror that I am not aware of any information bearing on the existence of any potential conflicts of interest or violation of ethics in public contracting provisions of the VPPA, Virginia Code §§ 2.2-4367 through 2.2-4377.

I further certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same Goods, Services, Insurance or Construction, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the state and Federal law and can result in fines, prison sentences, and civil damage awards.

I further certify that the statements regarding debarment, ethics in public procurement, submission of a single proposal, understanding of the conditions, and data on convictions contained in provision “Offeror Certifications” of the RFP are true and not misleading as to the Offeror.

I hereby certify that the responses to the above representations, certifications, and other statements, including all attachments, are accurate and complete. If after I sign these forms I learn of any information which makes any of the above representations, certifications or other statements inaccurate or incomplete, or reveals that any part of my previously submitted information is misleading, I will immediately bring it to the attention of the Purchasing Manager. I agree to abide by all conditions of this RFP and certify that I am authorized to sign for the Offeror.

COMPANY NAME (Please Print)

TELEPHONE NUMBER

ADDRESS

FACSIMILE NUMBER

E-MAIL ADDRESS

SIGNATURE:

DATE

NAME: (Please Print)

TITLE

ATTACHMENT "A"
REQUEST FOR PROPOSAL

SERVICE CATEGORIES BEING OFFERED FORM

CATEGORY 1 – SCADA MASTER STATION UPGRADE

- 1.1 Replacement of the City's existing SCADA Master Station

CATEGORY 2 – REMOTE TERMINAL UNIT UPGRADE

- 1.2 Upgrade of the City's existing RTUs

TABLE OF CONTENTS

I. BASIC TERMS:	27
A. DEFINITIONS:	27
B. PURPOSE OF THE CONTRACT:	27
C. CONTRACT PERIOD AND EXTENSIONS:	27
D. CONTRACT AMOUNT:	28
II. FORMATION:	28
A. CONDITIONS PRECEDENT TO FORMATION:	28
B. PARTIES:	29
C. AUTHORITY TO EXECUTE:	29
D. INCORPORATION OF DOCUMENTS:	29
III. PERFORMANCE:	30
A. CONTACTS:	30
B. BEGINNING PERFORMANCE	30
C. RISK OF LOSS AND ACCEPTANCE OF WORK:	30
D. WARRANTY:	30
E. INVOICES:	31
F. PAYMENT:	31
IV. TERMINATION OF CONTRACT:	32
A. TERMINATION FOR DEFAULT:	32
B. TERMINATION FOR CONVENIENCE:	32
C. TERMINATION FOR NON-APPROPRIATION:	33
D. CLAIMS UPON TERMINATION:	33
V. STATUTORY REQUIREMENTS:	34
A. EMPLOYMENT DISCRIMINATION:	34
B. ETHICS IN PUBLIC CONTRACTING:	35
C. DRUG-FREE WORKPLACE:	35
D. FAITH-BASED ORGANIZATIONS:	35
E. FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH:	35
F. LEGAL COMPLIANCE:	36
VI. DISPUTES:	36
A. GOVERNING LAW:	36
B. HOLD HARMLESS:	36
C. CONDITIONS PRECEDENT TO PURSUIT OF LEGAL REMEDIES:	37
D. VENUE:	37
E. LIMITATIONS ON ACTIONS:	37
F. WAIVER OF JURY TRIAL:	38
VII. GENERAL PROVISIONS:	38
A. TIME OF THE ESSENCE:	38
B. INTERPRETATION AND MODIFICATION OF THE CONTRACT:	39
C. EXAMINATION OF RECORDS:	40
D. ASSIGNMENT OF RIGHTS:	40
E. CONTRACT EXAMPLE:	41

INFORMATION, REQUIREMENTS & INSTRUCTIONS:

I. BASIC TERMS:

A. DEFINITIONS:

Capitalized terms that are defined in the VPPA, City Policy, or the City’s standard Request for Proposal for Goods, Services, Construction or Insurance have the same meanings in this Contract as are given in that law, policy, or Request for Proposal, except as provided below. Capitalized terms not defined in those sources but used in this Contract have the following meanings, unless the context clearly requires otherwise. Undefined terms have their common meanings appropriate to their context.

1. “Contract Administrator” assigned to administer the Contract for the City is Durwin Joyce, Electric Director, but the City may designate a new Contract Administrator by notice to the Contractor.
2. “Contractor's Representative” means the person who is responsible for the performance obligation of the Contractor under this Contract. The initial Contractor’s Representative is _____, but the Contractor may designate a new Contractor’s Representative by notice to the City.
3. “Drug-Free Workplace” means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.
4. “Notice of Default” means a notice sent to the other party’s designee (Contract Administrator for the City, Contractor’s Representative for the Contractor) setting forth the facts showing that party to be in default under the Contract.
5. “Notice of Termination” means a notice sent to the other party’s designee (Contract Administrator for the City, Contractor’s Representative for the Contractor) informing that party of the termination of the Contract as of a particular date.
6. “RFP” means the Request for Proposal which led to the formation of this Contract.
7. “Using Department” for purposes of this Contract shall mean the City Electric Department.

B. PURPOSE OF THE CONTRACT:

1. The Contractor hereby agrees to provide the following Goods, Services, Construction and/or Insurance to the City of Martinsville:

C. CONTRACT PERIOD AND EXTENSIONS:

1. The base term for this Contract shall be 1 Year with the right to renew for four (4) additional one (1) year periods.

2. This Contract may be extended as provided in the RFP or by change order or amendment. The City shall give the Contractor reasonable written notice of intent to renew prior to the expiration date of the current Contract. In the absence of any notification to renew, the Contract shall automatically terminate on the expiration date specified in the Contract. Agreement to extend the Contract term shall not be final until the Contractor provides written acknowledgement of the extension. The option to renew shall be exercised at the sole discretion of the City.
3. No fixed price Contract, however, may increase the price by more than twenty-five percent of the amount of the Contract or \$50,000, whichever is greater, without a recorded affirmative vote of the City Council. The City may extend the term of this Contract for Services to allow completion of any work undertaken but not completed during the original term of the Contract.

D. CONTRACT AMOUNT

In return for the Goods, Services, Insurance and/or Construction of the RFP identified above, and subject to the Termination for Non-Appropriation provision of this Contract, the City certifies that sufficient funds are budgeted and appropriated and shall compensate the Contractor in accordance with the payment provision of this Contract.

II. FORMATION:

A. CONDITIONS PRECEDENT TO FORMATION:

Before any Contract between the City and the Contractor is effective, the following conditions precedent must be satisfied. Satisfaction of these conditions is the responsibility of the Contractor. If, after performance under the Contract, the City learns that a condition precedent was not met, the City may, if permitted by law, ratify the Contract by affirmative recorded vote or may disclaim it, in its sole discretion.

1. Insurance: If the RFP requires certain insurance, the Contractor must provide proof of insurance in the amounts required by the Bid with an insurance company licensed to do business in the Commonwealth of Virginia. As used in this provision, “proof of insurance” means a copy of the relevant portions of the insurance declaration page, or its equivalent, showing continuing coverage at the required amounts.
 - a. Unless the Specifications state otherwise, the City shall be made an additional insured on all required policies of insurance.
 - b. No change, cancellation (other than noted below), or non-renewal shall be made in any insurance coverage without a thirty (30) day written notice to the Purchasing Manager. Notice for cancellation due to nonpayment of premium shall be no less than fifteen (15) days. The Contractor shall furnish proof of insurance prior to any change or cancellation date. The failure of the Contractor to deliver such proof of insurance is grounds for termination of the Contract.
 - c. Insurance coverage required hereunder shall be in force throughout the Contract period. Should the Contractor fail to provide proof of insurance within ten (10) days of written notice requesting such at any time during the Contract term, the City shall have the absolute right to terminate the Contract.
 - d. Compliance by the Contractor and any subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor or any subcontractors of their liabilities and obligations under this Contract.

- e. The City may and will, if requested by Contractor, reasonably accept proof of insurance provided by subcontractors or partners of the Contractor covering risks and hazards relating to work to be performed by such subcontractor and partners, in lieu of proof of insurance provided by Contractor. However, this shall not relieve Contractor of any of its other duties under this Paragraph II.A.1.
2. Bonds: If the Bid requires payment or performance bonds (or certified checks or bank draft or Irrevocable Letter of Credit), then bonds with surety satisfactory to the City attorney shall be submitted to the Purchasing Manager for approval.
3. Permits and licenses: If the procurement of the Goods, Services, Insurance or Construction that is the subject of this Contract requires possession of any licenses or receipt of any permits other than construction permits, then Contractor shall obtain those licenses and permits.
4. Payment of Debts: Contractor must pay all amounts shown as due to the City on the City's accounts, even if a dispute exists as to the debt's validity or enforceability.

B. PARTIES:

1. The sole parties to this Contract are the City of Martinsville and the Contractor/s.
2. The General Contractor/s remains responsible for work of the subcontractor(s) notwithstanding the naming of the subcontractor(s) in the proposal, and the City reserves the right to approve or reject any subcontractor(s) or substitute subcontractor(s).
3. It is understood and agreed that the Contractor/s is at all times herein acting as an independent contractor.
4. Neither this Contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written permission of the City in advance. No assignment without such permission will relieve the Contractor of any responsibility under this Contract.
5. There are no intended third-party beneficiaries of this Contract, unless it is made available by rider for other governmental entities to use. Making the Contract available to them by rider is the sole extent of the intended third-party benefit.
6. If this Contract is made available by rider for other governmental entities to use, any contracts formed between the Contractor and such other governmental entities shall be solely between those parties. The City shall not be a party to any of these Contracts.

C. AUTHORITY TO EXECUTE:

By executing this Contract on behalf of Contractor, the Contractor's Representative warrants that he or she has full authority to do so.

D. INCORPORATION OF DOCUMENTS:

The documents listed below in this Section IID are hereby incorporated by reference and fully made a part of the Contract. This Contract and the incorporated documents describe the subject of the Procurement, the particulars of its performance, the process and time for payment, and the rights and remedies of the parties (collectively, "the terms"). In case of any conflict between those documents' terms, the documents shall be given precedence in the following order, from highest to lowest:

1. Section II of the Request for Proposal (if any), inclusive of any Addendums, except to the extent modified through negotiation permitted by the VPPA,
2. This Contract,
3. Sections I and III-VI, both inclusive, of the RFP (if any),
4. The Proposal of the Offeror.

III. PERFORMANCE:

A. CONTACTS:

In addition to the Contract Administrator and the Contractor's Representative, the parties may designate additional contacts for exchange of information.

B. BEGINNING PERFORMANCE

Contractor shall not begin performance under the Contract until the Contract Administrator (I deleted issues it a purchase order, Procurement Card order or other) issues a notification to proceed.

C. RISK OF LOSS AND ACCEPTANCE OF WORK:

1. Contractor shall perform the work and deliver all Goods in accordance with recognized and customarily accepted industry practices, and performance shall be considered complete when the Contract Administrator approves the Services as acceptable. If the Contract Administrator rejects any deliverable, the Contractor shall be notified and shall have fourteen (14) calendar days from date of issuance of notification to correct the deficiencies and resubmit the deliverable.
2. Unless the City provides the materials or supplies, the Contractor bears the risk of damage or loss for materials or supplies covered by the Contract until delivery to the designated point. If the City rejects any deliverable, the Contractor bears all risk of damage or loss on them after notice of rejection. The Contractor must remove rejected materials or supplies at its own expense promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of a rejected delivery. If the Contractor does not remove rejected materials within ten (10) days after notification of rejection, the City may return the rejected materials or supplies to the Contractor at Contractor's risk and expense or may dispose of them as abandoned property.

D. WARRANTY:

1. The Contractor warrants that all Services it performs and all Goods, Insurance, and Construction it delivers to the City will be of good quality and meet the specifications of this Contract and of all literature supplied by the Contractor as part of the selection process which led to the award of this Contract. "Literature" as used in this provision means any and all brochures, fliers, catalogs, Proposals, web sites, email, or other information, in whatever written form, relating to the quality, utility, economic advantages, or composition of the Goods or Services. This warranty is in addition to and does not substitute for the Contractor's warranties of title, against infringement, of merchantability, and of fitness for particular purpose under Virginia Code §§ 8.2-312, 8.2-314, and 8.2-315, which the parties expressly agree apply to this Contract.
2. The Contractor shall furnish all guarantees and warranties that the terms of this Contract require to the Purchasing Manager before the City makes final payment on the Contract. Unless otherwise stated, manufacturer's standard warranty applies.

E. INVOICES:

1. Unless otherwise provided in the RFP, Contractor shall submit all its invoices for payment in the fiscal year in which the Goods, Services, Insurance or Construction were provided or within thirty days thereafter. The City operates on a fiscal year beginning on July 1 and ending on June 30 of each calendar year. Late invoices are subject to rejection if no appropriated funds are available for their payment.
2. The invoice must be in the name of the Contractor unless the City has received and approved an assignment.
3. Tasks shall be billed to the City upon completion. The City will not be responsible for any cost or expenses of operation of any kind associated with Contractor's provision of Services pursuant to this Contract, except as set out herein. Contractor shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the Services to be rendered hereunder except as set out herein. The City shall have no obligation to reimburse, pay directly or otherwise satisfy any taxes or other expenses of the Contractor in connection with the performance of its obligations under this Contract except as stated herein. If Contractor is deemed not to be an independent contractor by any local, state, or federal governmental agency, Contractor agrees to indemnify and hold harmless the City for any and all fees, costs, and expenses, including, but not limited to, attorney's fees incurred thereby.
4. The Contractor shall submit a proper invoice detailing the Goods, Services, Insurance or Construction provided, in duplicate. Such invoice shall include a detailed breakdown of all charges and shall be based on completion of tasks or deliverables for the period of time being billed.

Invoices shall be submitted to:

City of Martinsville
Electric Department
P O Box 1112
Martinsville, VA 24114-1112

F. PAYMENT:

In return for the Goods, Services, Construction and/or Insurance that are the subject of this Contract, and subject to the provision of this Contract relating to "Termination for Non-appropriation," the City shall compensate the Contractor within thirty (30) days after receipt of proper invoice for the amount of payment due or thirty (30) days after receipt of the Goods or Services, whichever is later.

1. The City reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provisions of the Contract or any modifications thereto. The City will not pay for any rejected deliverable.
2. With Construction contracts that provide for progress payments in installments based upon an estimated percentage of completion, the City shall retain 5% of the amount earned for work done and materials delivered as retainage, to be paid in the final payment to the Contractor.
3. Within seven days after receipt of amounts paid to the Contractor by the City for satisfactorily completed performance, the prime contractor agrees to:
 - a. Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under that contract;
or

- b. Notify the City and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

If the Contractor after having received payment from the City fails to pay each subcontractor its proportionate share of the total payment, the Contractor shall be obligated to pay interest to each subcontractor on all amounts that remain unpaid after the seven days following receipt by the Contractor of payment from the City.

4. Unless otherwise provided under the terms of this Contract or by statute, interest shall accrue at a rate of one percent per month against the Contractor on any unpaid amounts owed to each subcontractor.
5. The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
6. A Contractor that is an individual must provide his or her social security number and a Contractor that is any form of business entity must provide its federal employer identification number on a completed W-9 "Request for Taxpayer Identification Number and Certification" form, to be mailed to the City of Martinsville, Accounting Division's Office, P O Box 1112, Martinsville, VA 24114 or faxed to 276-403-5118. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. This information is required before payment can be made.

IV. TERMINATION OF CONTRACT:

A. TERMINATION FOR DEFAULT:

1. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.
2. Except in an emergency endangering life, safety, or the operation of the City government, the party claiming default shall provide notice and an opportunity to cure the default to the other party before terminating the Contract for default.
 - a. Notice of Default shall be given at least ten business days before the date set for termination and shall set forth the grounds for claiming default of the other party and the steps demanded to cure the default.
 - b. If the party receiving the Notice of Default cures the default before the end of the cure period set out in the Notice, then the party sending the Notice of Default shall not terminate the Contract for default.
3. If the period for cure passes without curing of the default, then the party sending the Notice of Default may send a Notice of Termination for default to the defaulting party.

B. TERMINATION FOR CONVENIENCE:

1. The City may terminate this Contract or any work or delivery required hereunder from time-to-time either in whole or in part, whenever the Contract Administrator, with the concurrence of the Purchasing Manager, determines that such termination is in the best interest of the City.
2. Termination may occur in whole or as to any discrete part of the Contract. A partial termination shall set forth the portions of the Contract which are terminated.

3. The effective date of the termination shall be three (3) days after issuance of a Notice of Termination signed by the Purchasing Manager and its mailing or delivery to the Contractor, or any later date specifically set forth in the Notice of Termination.

C. TERMINATION FOR NON-APPROPRIATION:

1. If funds are not appropriated for purposes of this Contract for any succeeding fiscal year subsequent to the one in which this Contract is entered into, then the City may terminate this Contract upon thirty (30) days written notice to the Contractor. The notice shall set forth the grounds for termination and its effective date.
2. If the City terminates for non-appropriation, the City shall be liable only for payments due through the effective date of termination.
3. Until the effective date of the termination, the Contractor shall continue to perform its duties under the Contract and is not excused from any portion of the Contract.

D. CLAIMS UPON TERMINATION:

1. Upon receipt of a Notice of Termination, the Contractor shall:
 - a. Cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
 - b. Place no further orders with any subcontractors except as may be necessary to perform any portion of the Contract not subject to the Notice (in the case of partial termination);
 - c. Terminate all subcontractors except to the extent necessary to complete work which was not subject to the Notice (in the case of partial termination);
 - d. Settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Contract Administrator and the Purchasing Manager; and
 - e. Use its best efforts to mitigate any damages which may be sustained by the Contractor or any of its subcontractors as a consequence of termination under this clause.
2. After complying with the foregoing provisions, the Contractor shall submit a termination claim within thirty days unless an extension is granted by the Contract Administrator. This termination claim shall document all amounts due under this provision.
 - a. Upon receipt of the Contractor's termination claim, the Contract Administrator, with the approval of the Purchasing Manager, shall pay from the Using Department's budget the reasonable costs of termination, including a reasonable amount for profit on Services delivered or completed. In no event shall this amount be greater than the original Contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the Goods or Services not delivered, or those Goods, Services, or Insurance not provided, or Construction work not performed. The calculation of the amount to be paid the Contractor shall be documented and made a part of the Contract file.
 - b. If the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Contract Administrator, with the approval of the Purchasing Manager, shall pay the Contractor from the Using Department's budget the amounts determined as follows, without duplicating any amount which may have already been paid under the preceding paragraph of this clause:

- i. With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - Cost of the Goods delivered or work performed; and
 - The cost of settling and paying any reasonable claims as provided above; and
 - A sum as profit on work performed determined by the Contract Administrator and Purchasing Manager to be fair and reasonable.
 - ii. The total sum to be paid shall not exceed the original Contract price, as reduced by the amount of payments otherwise made, and as further reduced by the Contract price of Goods, Services, Construction or Insurance not terminated.
 - c. If the Contractor is not satisfied with any payments which the Contract Administrator and Purchasing Manager determines to be due under this provision, the Contractor may make a claim in accordance with paragraph VI.C.1 herein.
 - d. In no event shall Contractor be entitled to any profits if this Contract is terminated for Contractor's default, and sums otherwise due to Contractor shall be reduced by the amount of any damages incurred by the City as a result of Contractor's default.
3. The Contractor shall include similar provisions for termination in any subcontracts and shall require subcontractors to make reasonable efforts to mitigate damages if the Contract is terminated. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever for loss or damage sustained by a subcontractor as a consequence of termination.

V. STATUTORY REQUIREMENTS:

A. EMPLOYMENT DISCRIMINATION:

In all contracts, regardless of contract amount, the Contractor will abide by the provisions of the Americans with Disabilities Act, and will require each subcontractor to do so. If this Contract is for a consideration in excess of Ten Thousand Dollars (\$10,000.00), then 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 other basis prohibited by state or federal 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 non-discrimination 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 the requirements of this paragraph.
4. The Contractor will include the provisions of this Contract paragraph in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

B. ETHICS IN PUBLIC CONTRACTING:

The provisions contained in Chapter 43, Article 6, Sections 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act, as set forth in the 1950 Code of Virginia, as amended, apply to this Contract. The provisions of Article 6 of Chapter 43 supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interest Act (§ 2.2-3100 et seq.), the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

C. DRUG-FREE WORKPLACE:

During the performance of this Contract the Contractor agrees to:

1. Provide a Drug-Free Workplace for the Contractor's employees.
2. Post in conspicuous places, available to employees and applicants for employment a statement notifying employees that the unlawful manufacture, sale, distribution, 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.
3. State in all solicitations or advertisement for employees placed by or on behalf of the Contractor that the Contractor maintains a Drug-Free Workplace.
4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000.00, or so that the provisions will be binding upon each subcontractor or vendor.

D. FAITH-BASED ORGANIZATIONS:

The City of Martinsville in procuring Goods and Services, or in making disbursements pursuant to this section, shall not discriminate against a faith-based organization on the basis of the organization's religious character or impose conditions that restrict the religious character of the faith-based organization, except funds provided for expenditure pursuant to contracts with public bodies shall not be spent on religious worship, instruction, or proselytizing, or impair, diminish, or discourage the exercise of religious freedom by the recipients of such Goods, Services, or disbursement.

E. FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH:

1. A contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.
2. A contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of this Contract. The

City may void any Contract with a business entity if the business entity fails to remain in compliance with this provision.

F. LEGAL COMPLIANCE:

1. The Contractor shall be solely responsible for complying with all applicable federal, state and municipal laws, codes and regulations during the performance of the Contract.
2. The Contractor has the responsibility to ensure that its forces and its subcontractors under this Contract comply with all applicable Occupational Safety and Health Administration (OSHA) requirements and all applicable State and City safety and occupational health standards. The Contractor is responsible for the safety of its employees. The Contractor has the sole responsibility and authority to prevent any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.
3. The Contractor agrees that it does not, and shall not during the performance of the Contract for Goods and Services, knowingly employ unauthorized alien or aliens as defined in the Federal Immigration Reform and Control Act of 1986.
4. By law, the City will not receive any materials, products, or chemicals which may be hazardous to an employee's health unless accompanied by a Material Safety Data Sheet (MSDS) when received. This MSDS will be reviewed by the City, and if approved, the materials, product or chemical can be used. If the MSDS is rejected, the Contractor must identify a substitute that will meet the City's criteria for approval.

VI. DISPUTES:

A. GOVERNING LAW:

This Contract is governed by the law of the Commonwealth of Virginia, including but not limited to the Virginia Public Procurement Act (VPPA), Sections 2.2-4300 et seq. of the Code of Virginia (1950), as amended. This Contract is also governed by the applicable City Policies.

B. HOLD HARMLESS:

1. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City and its officers, agents, employees, community representatives, volunteers or others working on behalf of the City from any and all claims, judgments, suits, losses, damages, payments, costs, fines and/or fees levied against the City and expenses of every nature and description, including attorney's fees, arising out of, connected or associated with or resulting from the lack of performance or the negligent performance of work as described in this Contract, Contract Documents or any agreement that results from this Contract. Further, if the Contractor subcontracts for work, it will require in its subcontracts that each subcontractor indemnify, defend, and hold harmless the City and its officers, agents, employees and community representatives, from any and all claims and losses accruing or resulting from the negligent performance of work as described in any agreement that results from this Contract.
2. To the fullest extent permitted by law, the Contractor shall also indemnify, defend, and hold harmless the City and its officers, agents, employees, community representatives, volunteers or others working on behalf of the City against all costs, including reasonable attorney's fees, arising from liens encumbering the City's Property filed by subcontractors, sub-subcontractors, material suppliers, and all other persons and entities

acting for and under the Contractor, and the Contractor shall immediately discharge or bond such liens off.

3. Virginia is a Dillon Rule state. Unless specifically permitted by statute, indemnification or any attempt to have the City hold others harmless is invalid and unenforceable as an impermissible waiver of the City's sovereign immunity which may create potential future debt in violation of Virginia Constitutional and statutory requirements. The City cannot waive its sovereign immunity.

C. CONDITIONS PRECEDENT TO PURSUIT OF LEGAL REMEDIES:

Before the Contractor may exercise any legal remedy, it may have in relation to rights arising out of this Contract, it must comply fully and strictly with each of the applicable conditions below. Failure to comply fully and strictly with an applicable condition precedent bars the Contractor from exercising any legal remedies it may otherwise have in relation to this Contract until it complies with the condition precedent or the City knowingly and intentionally waives the condition precedent.

1. A Contractor must submit any dispute arising out of this Contract to the Contract Administrator and Purchasing Manager for adjustment. In doing so, it shall provide all relevant evidence that bears on the City's liability for the amount claimed or responsibility to grant any non-monetary relief requested. Claims are forever barred unless (a) written notice of the Contractor's intention to file a claim is given at the time of the occurrence or beginning of the work upon which the claim is based, whichever is earlier and (b) the claim and all relevant evidence that bears on the claim is submitted to the Contract Administrator and Purchasing Manager within 60 days of receipt of final payment.
2. Disputes by the Contractor with respect to this Contract shall be decided within fifteen (15) days from submission by the Purchasing Manager, who shall reduce his/her decision to writing, and mail or otherwise furnish a copy thereof to the Contractor. This decision shall be final and binding unless within five (5) days from the date of such decision the Contractor mails or otherwise furnishes the City Manager a written appeal. The City Manager shall consider the appeal and render his or her written decision within seventy (70) days. The decision of the City Manager shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or as not supported by any evidence. Pending a final determination of the claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the Purchasing Manager or the City Manager, as the case may be.
3. The City does not have administrative appeals procedures under Virginia Code § 2.2-4365.

D. VENUE:

Any action brought under this Contract must be brought in the state courts for the City of Martinsville and may not be removed to the Federal Court system. Contractor expressly waives any objection to venue or jurisdiction of the City Circuit Court, Martinsville, VA.

E. LIMITATIONS ON ACTIONS:

Any action brought under this Contract, except an action for breach of warranty, shall be brought within the shorter of the statutory limitations period and the period of three years from the date of final payment without any tolling of this statutory limitations period for any reason whatsoever.

F. WAIVER OF JURY TRIAL:

In any action brought under this Contract, the parties expressly waive their right to trial by jury and agree to submit all questions of fact to the judge as trier of fact.

VII. GENERAL PROVISIONS:

A. TIME OF THE ESSENCE:

Time shall be of the essence to this Contract, except where it is herein specifically provided to the contrary.

1. If the Contractor at any time finds that the schedule will not be met for any reason, the Contractor shall so notify the Contract Administrator in writing.
2. Where Contractor is prevented from completing any part of the Work within the Contract Period due to abnormal weather conditions the Contract Period will be extended in an amount calculated as stated below if a Claim is made for extension in writing and provided to the City within the time frame and in the manner prescribed and if the performance of the Work is not, was not, or would not have been delayed by any other cause for which the Contractor is not entitled to an extension of the Contract Period under the Contract Documents.
3. Contractor acknowledges and agrees that adjustments in the Contract Period will be permitted for a delay only to the extent such delay (i) is not caused, or could not have been anticipated, by Contractor; (ii) could not be limited or avoided by the Contractor's timely notice to the City of the delay or reasonable likelihood that a delay will occur; and (iii) is of a duration not less than one day. Such an adjustment of time shall be Contractor's sole and exclusive remedy for the delays described in this Section, except to the extent the delay is caused by acts or omissions of the City and due to causes within its control.
4. Actual adverse weather delay days must prevent work on critical activities outdoors for fifty percent (50%) or more of Contractor's scheduled workday in order to be counted. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. Where Contractor is prevented from completing any part of the Work within the Contract Period due to abnormal weather conditions, the Contract Period will be extended in an amount equal to the time lost due to such delay if a Claim is made therefore as provided herein. Abnormal weather conditions occur only if the total number of actual adverse weather days exceeds the standard for that month as shown in the following table:

Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
7	7	8	7	8	7	8	8	6	6	6	6

5. Upon commencement of on-site activities and continuing throughout construction, Contractor shall record daily the occurrence of adverse weather and resultant impact to normally scheduled work and within 30 days of the last day of any month (hereinafter referred to as the "Reporting Month"), Contractor shall submit a written adverse weather report, including copies of Contractor's daily weather reports and applicable climatologically data from the National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location, unless the City allows, in writing, an additional period of time for the submission of said report. Notwithstanding any other

provisions, failure to submit the required written report within the time specified above shall be deemed to be and shall constitute a waiver by Contractor of any and all claims for delay due to adverse weather conditions occurring during said Reporting Month.

6. The City shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

Contractor shall not be entitled to an adjustment in Contract Price or Contract Period for delays within the control of Contractor. Delays attributable to and within the control of a subcontractor or supplier shall be deemed to be delays within the control of Contractor.

B. INTERPRETATION AND MODIFICATION OF THE CONTRACT:

1. This Contract, including its incorporated documents, contains the whole agreement between the parties as to its subject, and no prior or contemporaneous communications, representations, or agreements, written or verbal, may alter, add to, or contradict any provision in it. There are no promises, terms, conditions, or obligations related to the subject of this Contract other than those contained herein.
2. All modifications and changes to the Contract shall be in writing and signed by the Purchasing Manager.
3. If a Court of competent jurisdiction finds any provision of this Contract to be invalid, such ruling shall not invalidate the entire Contract but shall apply only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect to the maximum extent permitted by law.
4. The Contract Administrator, with the concurrence of the Purchasing Manager, shall have the authority to order changes in this Contract, which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a "Change Order" and signed by the Mayor, City Manager, or Purchasing Manager.
 - a. Such orders shall be limited to reasonable changes in the supplies, Services to be performed or the time of performance; provided that the Contractor shall not be excused from performance under the changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the conditions and limitations herein.
 - b. Contractor need not perform any work described in any Change Order unless it has received a written certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.
 - c. The Contractor shall make a demand for payment for completed changed work within 30 days of completion of Change Order, unless such time period is extended in writing, or unless the Contract Administrator requires submission of a cost proposal prior to the initiation of any changed work or Services.
 - d. No claim for changes made by Change Order shall be considered if made after final payment in accordance with the Contract.

C. EXAMINATION OF RECORDS:

1. The Contractor agrees that the City or any duly authorized representative of the City may have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract. This right shall expire on the third anniversary of the issuance of final payment under this Contract.
2. The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative may have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of such subcontractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public. This right expires on the third anniversary of the issuance of final payment to the subcontractor.

D. ASSIGNMENT OF RIGHTS:

1. Antitrust: By entering into a Contract, the Contractor conveys, sells, assigns, and transfers to the City all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular Goods or Services purchased or acquired by the City under said Contract.
2. Warranty: By entering into a Contract, the Contractor conveys, sells, assigns and transfers to the City all warranties related to Goods or Services provided to the City under this Contract.

IN TESTIMONY WHEREOF, the City of Martinsville has caused its name to be hereunto subscribed pursuant to authority heretofore duly granted by the City Council of the City of Martinsville; and

Contractor has caused its name to be hereunto subscribed by Contractor's Representative, and (if a Corporation) has caused its corporate seal to be duly affixed and attested by the person authorized to do so, signifying that it intends to be bound by this Contract.

CITY OF MARTINSVILLE

By:

VENDOR

By:

Authorized Official

Contractor's Representative

Print Name and Title

Print Name and Title

CITY OF MARTINSVILLE, VIRGINIA

FINANCE DEPARTMENT

PURCHASING DIVISION

55 W. Church St, Martinsville, VA 24112

Telephone: (276) _____ Facsimile: (276) _____

Website: www.Martinsvillecity.org

CITY OF MARTINSVILLE STANDARD CONTRACT FOR GOODS, SERVICES, CONSTRUCTION AND INSURANCE RESULTING FROM AN RFP

CONTRACT NO:

SUBJECT:

Between:

**CITY OF MARTINSVILLE
55 W. CHURCH ST
MARTINSVILLE, VA 24112**

276-252- _____

And the Vendor:

This Contract (hereinafter, "Contract") is entered into on and as of _____
, 20____ by and between the CITY OF MARTINSVILLE, a municipal corporation of
the Commonwealth of Virginia (hereinafter, "City"), and _____ (hereinafter
"Contractor"), for Goods,

Services, Construction and/or Insurance identified herein, on the following terms and conditions.