

Town of Abingdon
INVITATION TO BID



Project Title:

Annual Guardrail Installation, Repair and Maintenance Services

Bid Release Date: May 6, 2024

Bid Opening/Due Date: 10:00 AM on Tuesday, May 21, 2024

Courier or Hand Delivery Address:

Michael Surrett
Public Works Director
Town of Abingdon
299 Kings Mountain Drive
Abingdon, Virginia 24210

This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 11-35.1 or against a bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment.

Contents

ADVERTISEMENT FOR BIDS ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES.....	3
INFORMATION FOR BIDDERS	4
PROJECT DESCRIPTION	4
BACKGROUND	4
SCOPE OF WORK	4
PROJECT SCHEDULE.....	5
CONTRACT AWARD	6
MINIMUM REQUIRMENTS	6
SELECTION PROCESS.....	9
PRE-BID CONFERENCE.....	10
SUBMISSIONS AND DEADLINES.....	10
CIVIL RIGHTS.....	12
PROPRIETARY AND CONFIDENTIAL INFORMATION	13
ATTACHMENT A. PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION FORM	14
ATTACHMENT B. STATE CORPORATION COMMISSION (SCC) FORM	15
ATTACHMENT C. NON-COLLUSION AFFIDAVIT	16
ATTACHMENT D. NOTICE OF EXCEPTIONS.....	17
BID PROPOSAL.....	18
*Insert "a corporation", "a partnership", or "an individual" as applicable.....	18
BASE BID SCHEDULE	19
BID BOND	20
PAYMENT BOND.....	21
PERFORMANCE BOND.....	23
AGREEMENT	27
NOTICE TO PROCEED.....	31
GENERAL TERMS AND CONDITIONS	32



ADVERTISEMENT FOR BIDS

Annual Guardrail Installation, Repair and Maintenance Services

Sealed bids for Annual Guardrail Installation, Repair and Maintenance Services for the Town of Abingdon, Virginia will be received by Michael Surrett, Public Works Director, until **10:00AM local time, Tuesday, May 21, 2024**, at the Public Works Administration Building, 299 Kings Mountain Drive, Abingdon, Virginia 24210 at which time they will be opened and publicly read aloud. The work under this contract shall be to obtain the services of a qualified professional contractor to provide a guardrail indefinite quantities contract for all maintenance and repairs of damaged guardrails and installation of new guardrails at various locations within the Town of Abingdon, Virginia.

Sealed proposals shall state on the outside of the envelope the company's name and address and "BID PROPOSAL-ANNUAL GUARDRAIL INSTALLATION, REPAIR & MAINTENANCE SERVICES", addressed to the attention of Michael Surrett, Public Works Director, 299 Kings Mountain Drive, Abingdon, Virginia 24210. **Bidders must be licensed as a Class A Contractor in the Commonwealth of Virginia.** All work shall conform to VDOT Road and Bridge Standards and Specifications. The bidder's attention is directed to the requirements of Title 2.2 Chapter 43, of the Code of Virginia and Chapter 2, Article V of the Code of Ordinances of the Town of Abingdon. The procedure for withdrawal of bids shall conform to Code of Virginia, Section 2.2-4330.B. (I). The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. The Town reserves the right to reject any or all bids, to waive any irregularities or informalities in the bidding, and to accept the proposal, which, in its opinion, will be in the best interest of the Town.

*Michael Cochran, Town Manager
May 6, 2024*

INFORMATION FOR BIDDERS

PROJECT DESCRIPTION

The Town of Abingdon conducts yearly routine maintenance and repair of guardrail at various locations on an as needed basis.

BACKGROUND

The intent of this contract is to establish a job-ordering term contract for Annual Guardrail Installation, Repair and Maintenance Services in conjunction with the Town's needs on an as-needed basis with a response time within 10 days from the request for work to be done.

The initial contract will be awarded for a period of (1) one year and will be renewable for four additional one-year terms at the option of the Town.

SCOPE OF WORK

The following specifications are provided as a minimal requirement only. The Town will consider any product/service that meets or exceeds the minimum requirements. The purpose of the ITB is to solicit bids to establish a contract for the provision of repairing and replacing guardrails on an annual as-needed basis. The awarded Contractor shall fully execute the work to include the repair and or replacement of guardrails at various locations within the Town of Abingdon without exception, all materials, labor, equipment, appliances, clean-up, applicable sales, use and other taxes, building permit or fees, the Contractor's labor, overhead. The work includes all labor, equipment, and materials to install, repair, replace or maintain guardrail at locations within the town as specified in the BID PROPOSAL, agreement.

Prior to beginning the Work, the Contractor may be required to attend a pre-construction meeting scheduled by the Town representative to clarify the Contractor's planned operations for prosecuting and completing the Work in accordance with the Contract.

Traffic Control:

The Contractor shall have at least one (1) person on the Project site during all Work operations who currently is certified as a Traffic Control Supervisor (TCS) either by VDOT in Intermediate Work Zone Traffic Control, or by the American Traffic Safety Services Association (ATSSA). This person must have his certification card with him while on the Project site. This person shall be responsible for the oversight of work zone traffic control within the Project limits in compliance with the Contract requirements. This person's duties shall include supervision of the installation, Adjustment (if necessary), inspection, maintenance, and removal when no longer required, of all work zone traffic control devices on the Project.

Response Requirements:

1. **EMERGENCY:** Upon notification from the Town of the need of an emergency repair, the Contractor shall make emergency repairs within 24 hours of notification. Emergency repairs are considered those damages, which would immediately impact motorist safety and may include, but are not

limited to: exposed end sections, exposed fixed objects and guardrail that has sustained enough damage as to prevent it from providing protection during another hit.

2. Emergency repairs shall take precedence over non-emergency repairs unless otherwise directed by the Town representative.
3. No additional charges for emergency repairs will be paid other than those listed on the bid lines in this contract.

Hours of Operation:

1. Work shall be performed according to the schedule conditions provided below, weather conditions permitting, excluding all observed Town and State holidays. The Town reserves the right to stop work when the Town deems conditions hazardous to the traveling public.
2. Restrictions to traffic shall be removed by 12:00 p.m. the day before a holiday and shall not be restricted again until 8:00 a.m. the day after the holiday. When a holiday falls on Monday, restrictions shall be removed by 12:00 p.m. the preceding Friday. When a holiday falls on a Friday, restrictions shall not be placed until 10:00 a.m. the following Monday. Work may not be performed on holidays and may be restricted for other special events supported by the Town. Work is not to be performed on weekends unless approved by the Engineer. The Town reserves the right to alter these limitations on a case-by-case basis.

Quality Control:

The awarded Contractor shall be responsible to ensure that all installations that are completed shall be equal to or exceed the Virginia Department of Transportation (VDOT) specifications as outlined in the latest edition of the Standard Specifications for Road and Bridge Construction and the latest addition of the VDOT Roadway Design Standards.

At the completion of each assigned work location, the Contractor shall contact the Town for inspection of completed work. During the inspection, the Contractor shall demonstrate to the Town that the work is compliant with the specifications set herein and any codes applicable. Any deficiencies shall be corrected by the Contractor at the Contractor's sole expense within 48 hours and prior to final acceptance of the work. A final inspection result of "satisfactory" is required prior to billing for the work.

PROJECT SCHEDULE

Invitation to Bid Release: Monday, May 6, 2024

Sealed Bid Due Date: Tuesday, May 21, 2024, 10:00 AM

Sealed Bid Opening: Tuesday, May 21, 2024, 10:00 AM

Award Date: Anticipated by Monday, June 3, 2024, (pending Abingdon Town Council Approval)

Work To Begin: Following award - After Notice to Proceed is issued.

Work Completion Date: Monday, June 30, 2025

CONTRACT AWARD

After Council approval, the Town will enter in to a contract with the lowest responsive and responsible bidder. Documents and information submitted in this Invitation to Bid will be used in that contract. The successful firm will be required to have or acquire a Town of Abingdon Business License before work can begin.

Contact: Megan Erwin
Contract Administrator/Procurement Specialist
299 Kings Mountain Drive
Abingdon, VA 24210
(276) 525 – 4934
merwin@abingdon-va.gov

MINIMUM REQUIRMENTS

The Town will evaluate all written submittals. All Bids must meet the specification as outlined in this Invitation to Bid and all Bidders must hold a VDOT GRIT certification. The Town reserves the right to investigate the qualifications and experience of the proposers. Bids not sufficiently detailed or in an unacceptable form may be rejected by the Town. Dates and documentation included in the bid become public information upon award of the contract. The Town may waive any informalities or minor defects, or reject any and all BIDS.

Interested Bidders must follow the process outlined in the following pages in submitting their Bids.

Bidder Requirements

Bidders must be prequalified with the Virginia Department of Transportation and all materials and installation shall be in strict accordance with the latest edition of the Virginia Department of Transportation Standard Specifications for Roads and Structures and the attached guardrail specifications.

Contractors shall be responsive, responsible, and have the capability, experience, and personnel to render the services requested. Bidders shall be able to provide all the services referenced herein or assemble a team which can do so. Contractors shall also have the minimum experience of five (5) years in this type of work and shall provide references that verify this experience.

Contractors shall hold a current business license and be properly licensed/registered to operate in the State of Virginia.

Bidder must provide evidence, satisfactory to the Town, of the following insurance requirements:

- Owner requires the Contractor to have and maintain the following insurance coverage and indemnification provisions with the Town of Abingdon named as an additional insured hereunder.
- The Contractor agrees to provide and maintain insurance coverage until the contract is completed and to furnish certificates from its insurance carriers showing that it carries insurance in the following minimum limits:
- Bodily Injury by Accident: \$100,000 each accident

- \$1,000,000 per occurrence limit Comprehensive General Liability: \$1,000,000 per occurrence Automobile Liability: \$1,000,000 per occurrence for bodily injury.
- \$1,000,000 per occurrence for property damage Workers' Compensation Statutory Limits
- Proof of Insurance
- The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates, and date of expiration of policies. Such certificates shall also contain substantially the following statement: The insurance covered by this certificate will not be cancelled or materially altered, except after (30) thirty days written notice has been received by the Owner.

When determining whether a Bidder is responsible the following factors may be considered. Any one of which will suffice to determine whether a Bidder is responsible, or the Bid is the most advantageous to the Town:

- The ability, capacity and skill of the proposer to perform the contract or provide the equipment and/or service required.
- Whether the proposer can perform the contract within the time specified.
- The quality of performance of previous public and private contracts or services, including, but not limited to, the proposer's failure to perform satisfactorily or complete any written contract.
- The previous and existing compliance by the Bidder with laws relating to the contract or service.
- Evidence of collusion with any other Bidders, in which case colluding Bidders will be restricted from submitting further Bids on the subject project or future bids, for a period not less than three years.
- The Bidder has been convicted of a crime of moral turpitude or any felony, excepting convictions that have been pardoned, expunged or annulled, whether in this state, in any other state, by the United States, or in a foreign country, province or municipality. Bidder shall affirmatively disclose to the Town all such convictions, especially of management personnel or the Bidders as an entity, prior to notice of award or execution of a contract, whichever comes first. Failure to make such affirmative disclosure shall be grounds, in the Town's sole option and discretion, for termination for default subsequent to award or execution of the contract.
- If the Bidder will be unable, financially or otherwise, to perform the work.
- At the time of the Bid opening, the Bidder is not authorized to do business in the Virginia, or otherwise lacks a necessary license, registration or permit, or VDOT Prequalification
- Any other reason deemed proper by the Town.

If the organization submitting a bid must outsource or contract any work to meet the requirements contained herein, this must be clearly stated in the bid, and must include the name and description of the

company being contracted. Any subcontractor, if approved, shall be bound by the conditions of the contract between the Department of Public Works and the Contractor.

OR

(The Town will require a 5% bid bond. All BIDS will remain subject to acceptance for sixty (60) days after the day of the BID opening. A conditional or qualified BID will not be accepted.

Bidder must provide evidence, satisfactory to the Town, of the following insurance requirements:

- Owner requires the Contractor to have and maintain the following insurance coverage and indemnification provisions with the Town of Abingdon named as an additional insured hereunder.
- The Contractor agrees to provide and maintain insurance coverage until the contract is completed and to furnish certificates from its insurance carriers showing that it carries insurance in the following minimum limits:
 - *Bodily Injury by Accident: \$100,000 each accident*
 - *\$1,000,000 per occurrence limit Comprehensive General Liability: \$1,000,000 per occurrence Automobile Liability: \$1,000,000 per occurrence for bodily injury*
 - *\$1,000,000 per occurrence for property damage Workers' Compensation Statutory Limits*
- Proof of Insurance
- The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates, and date of expiration of policies. Such certificates shall also contain substantially the following statement: The insurance covered by this certificate will not be cancelled or materially altered, except after (30) thirty days written notice has been received by the Owner.

When determining whether a Bidder is responsible the following factors may be considered. Any one of which will suffice to determine whether a Bidder is responsible or the Bid is the most advantageous to the Town:

- The ability, capacity and skill of the proposer to perform the contract or provide the equipment and/or service required.
- Whether the proposer can perform the contract within the time specified.
- The quality of performance of previous public and private contracts or services, including, but not limited to, the proposer's failure to perform satisfactorily or complete any written contract.
- The previous and existing compliance by the Bidder with laws relating to the contract or service.
- Evidence of collusion with any other Bidders, in which case colluding Bidders will be restricted from submitting further Bids on the subject project or future bids, for a period not less than three years.
- The Bidder has been convicted of a crime of moral turpitude or any felony, excepting convictions that have been pardoned, expunged or annulled, whether in this state, in any other state, by the United States, or in a foreign country, province or municipality. Bidder shall affirmatively disclose to the Town all such convictions, especially of management personnel or the Bidders as an entity, prior to notice of award or execution of a contract, whichever comes first. Failure to make such

affirmative disclosure shall be grounds, in the Town's sole option and discretion, for termination for default subsequent to award or execution of the contract.

- If the Bidder will be unable, financially or otherwise, to perform the work.
- At the time of the Bid opening, the Bidder is not authorized to do business in the Virginia, or otherwise lacks a necessary license, registration or permit, or for guardrail maintenance or services.
- Any other reason deemed proper by the Town.)

TAX EXEMPTION

The Town of Abingdon is exempt from federal excise tax and from all State and local taxes. Contractor shall not include such taxes in any invoices under the Contract. Upon request, the Town will furnish the Contractor with tax exemption certificates or the Town tax exempt number. The Town's exemption from taxation does not transfer to Contractor for Contractor's purchases for supplies or services required to complete the Contract.

Bids must be sealed and received no later than 10:00 a.m., Tuesday, May 6, 2024. The submittals are to be marked on the outside "Bid Proposal- Annual Guardrail Installation, Repair and Maintenance Services" along with the Proposers company name.

COMPLIANCE

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over this project shall apply to the project throughout. The Contractor warrants that its performance under this Contract will at all times comply with all local, state and federal laws, codes, rules, ordinances, and regulations; be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and Town taxes. The Contractor shall also ensure that all relevant employees and subcontractors shall have all valid and up-to-date licenses required by the State of Virginia necessary for this line of work. The validity, interpretation, and execution of a contract and the performance of and rights accruing under this Contract are all to be governed by the laws of Virginia.

TERMS AND RENEWALS

The initial contract will be awarded for a period of (1) one year and will be renewable for four (4) additional one-year terms at the option of Town at the same prices, terms, and conditions as set forth in this Contract and the ITB unless otherwise mutually agreed upon.

SELECTION PROCESS

Award to the lowest responsive and responsible bidder. **Performance and Payment bonds in the amount of 100% of the contract price will be required with the agreement.**

The contractor to whom the contract is awarded will be required to execute the Agreement and obtain the performance BOND and payment BOND within ten (10) calendar days from the date when NOTICE OF AWARD is delivered to the BIDDER. The NOTICE OF AWARD shall be accompanied by the necessary Agreement and BOND forms. In case of failure of the BIDDER to execute the Agreement, the OWNER may at his option consider the BIDDER in default, in which case the BID BOND accompanying the proposal shall become the property of the OWNER.

The OWNER within ten (10) days of receipt of acceptable performance BOND, payment BOND and Agreement signed by the party to whom the Agreement was awarded shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The NOTICE TO PROCEED shall be issued at the time of the execution of the Agreement by the OWNER. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended by mutual agreement between the OWNER and CONTRACTOR. If the NOTICE TO PROCEED has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

PRE-BID CONFERENCE

N/A

SUBMISSIONS AND DEADLINES

Fully responsive Bids will contain the following information:

1. The name, address, and phone number of three to five current contacts for whom you have performed similar services with photos of finished project.
2. Letter or other documentation stating the Project Manager with the following contact information; name, company mailing address, email address, office phone number and if available, mobile phone number.
3. Proof of Insurance
4. Copy of Virginia Contractor licenses
5. Attachments A, B, C and D as provided
6. Bid Forms completely filled out and signed. (see attachments)
7. Bid Bond (5%)

Bids must be sealed and received no later than 10:00 a.m., Tuesday, May 21, 2024. The submittals are to be marked on the outside "ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES" along with the Proposers company name.

Courier or hand delivered must be received by the deadline and addressed to:

Michael Surrett
Public Works Director
Town of Abingdon
299 Kings Mountain Drive
Abingdon, Virginia 24210

Questions concerning the Invitation to Bid can be directed to the contact information below, and shall be received no later than **4:00 PM, Thursday, May 16, 2024**. Any questions received after Thursday, May 16, 2024 may not be answered in fairness to other Bidders.

Scope of Service

Mathis Price
Superintendent Streets
299 Kings Mountain Drive
Abingdon, VA 24210
(276) 698 – 0966
cmprice@abingdon-va.gov

Contract/Procurement

Megan Erwin
Contract Administrator/Procurement Specialist
299 Kings Mountain Drive
Abingdon, VA 24210
(276) 525 - 4934
merwin@abingdon-va.gov

Bids received after the stated deadline will not be accepted.

This Invitation to Bid does not commit the Town to pay any costs incurred by the individuals or firms in the preparation and submission of the Bid. **The Town of Abingdon reserves the right to reject any or all Bids at any time without penalty.**

The Town of Abingdon is an equal opportunity owner/employer and will not discriminate against any vendor because of race, creed, color, religion, sex, national origin, or ADA disability status.

CIVIL RIGHTS

The Town of Abingdon assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all sub-consultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within 10 work days of notification of selection when requested by the Department. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000.

ANTI-DISCRIMINATION: By submitting their proposals, offers certify to the Town that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act and Code of Virginia 2.2-4311, 2.2-4311.2, and 2.2-4312 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipients religion, religious belief, refusal to participate in a religious practice, or on the race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, or disability, and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia 2.2.4343.1E).

Contract amount equals or exceeds \$10,000.

1. During the performance of this contract, the contractor agrees as follows:
 - i. During the performance of this contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, or disability, or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - ii. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, shall state that it is an equal opportunity employer.
 - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 - iv. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Town may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from City contracting regardless of whether the specific contract is terminated.

2. The contractor will include the provisions of Paragraph a.1, preceding above, in every subcontract or purchase order equals or exceeds \$10,000, so that the provision will be binding upon each subcontractor or vendor.

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

PROPRIETARY AND CONFIDENTIAL INFORMATION

The Town promises to keep confidential, subject to the terms of this paragraph and to the extent permitted by law, Proprietary Information submitted in response to this Request for Proposal. For purposes of this paragraph, "Proprietary Information" means all confidential and/or proprietary knowledge, data or information in which the Offeror has a protectable interest, including: (a) trade secrets, inventions, ideas, know-how, improvements, discoveries, developments, designs and techniques; (b) information regarding research and development, new products marketing and selling, business plans, licenses, records, facility locations, documentation, software programs, price lists, contract prices for purchase and sale of the Offeror's services, customer lists, prospect lists, pricing on business proposals to new and existing customers, supplier pricing, equipment configurations, ledgers and general information, employee records, mailing lists, accounts receivable and payable ledgers, budgets, financial and other records of the Offeror; and (c) information regarding the skills and compensation of other employees of the Offeror. "Proprietary Information" does not include, however, information that is publicly available or readily ascertainable by independent investigation. To qualify Proprietary Information for protection from disclosure, the Offeror must: 1) request protection of the Proprietary Information before, or contemporaneously with, submission of the Proposal; 2) identify the Proprietary Information to be protected; and 3) state the reasons why the information is proprietary. The Offeror cannot designate as Proprietary Information a) an entire proposal; b) any portion of a proposal that does not contain Proprietary Information; c) line item prices; or d) the total proposal price. The Town may decline to defend against a lawsuit filed against it to compel release of information designated as proprietary, but in that event the Town will provide reasonable notice to the Offeror regarding its decision to defend pending lawsuits.

ATTACHMENT A. PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION FORM

Code of Virginia 2.2-4342F (updated 07/01/18): “Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (a) an entire bid, proposal, or prequalification application; (b) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (c) line item prices or total bid, proposal, or prequalification application prices.”

Trade secrets or proprietary information shall be identified in writing on this form, either before or at the time the data or other material is submitted. Note: If proprietary/confidential information is identified, Bidder/Offeror must submit a redacted copy (in electronic PDF format) of their bid/proposal in addition to the required number of copies requested. The proprietary or trade secret material must be clearly identified in the redacted bid/proposal copy by a distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute a trade secret or proprietary information. The designation of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the offeror refuses to withdraw such a classification designation, the proposal will be rejected.

Name of Bidder/Offeror:

SECTION/TITLE	PAGE NUMBER(S)	REASON(S) FOR WITHHOLDING FROM DISCLOSURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

*Bidder/Offeror may attach additional sheets if necessary

Check this box if there are none.

ATTACHMENT B. STATE CORPORATION COMMISSION (SCC) FORM

STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:

Pursuant to Code of Virginia 2.2-4311.2 subsection B, a bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid/proposal the identification number issued to it by the State Corporation Commission (SCC) and shall not allow the identification number to lapse, be revoked or cancelled at any time during the term of the contract. Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid/proposal a statement describing why the bidder/offeror is not required to be so authorized. A link to the SCC site is at <http://www.scc.virginia.gov>.

Select one of the following boxes. The undersigned Offeror:

- is a corporation or other business entity with the following SCC identification number:

- is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust.
- is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location).
- is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia. Attach opinion of legal counsel to this form.
- has not completed any of the foregoing options but currently has pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wishes to be considered for a waiver to allow them to submit the SCC identification number after the due date for bids/proposals. The Town reserves the right to determine in its sole discretion whether to allow such waiver.

Signature: _____ Date: _____

Name: _____

(Print)

Name of Firm: _____

Title: _____

ATTACHMENT C. NON-COLLUSION AFFIDAVIT

Under oath, I hereby affirm under penalty of perjury:

- (1) That I am the offeror or a partner of the offeror, or an officer or employee of the offeror's corporation with authority to sign on its behalf;
- (2) That the attached proposal or proposals have been arrived at by the offeror and have been arrived at and submitted without collusion or any design to limit bidding or competition;
- (3) That the contents of the proposal or proposals have not been communicated to any person not an employee or agent of the offeror on any bid furnished with the proposal or proposals, and will not be communicated to any such person prior to the official opening of the proposal or proposals; and
- (4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signature: _____

Date: _____

Name: _____
(Print)

Name of Firm: _____

Title: _____

TOWN OF _____,

STATE OF _____, to
wit:

I, _____, a Notary Public, do
certify that _____ whose
name is signed to the foregoing has this date acknowledged the same before me in my Town foresaid.
Given under my hand this _____ day of _____, 20_____.

My Commission expires _____.

Notary Public _____.

ATTACHMENT D. NOTICE OF EXCEPTIONS

Name of Bidder/Offeror:

List exceptions to any portions of ITB/RFP (i.e. General Terms & Conditions, Federal Terms & Conditions, Special Terms & Conditions):

Check this box if there are none.

NOTE: THIS FORM IS NOT REQUIRED OR REQUESTED TO BE COMPLETED IN THE FOLLOWING INSTANCES. IF YOU FEEL THIS FORM DOES NOT APPLY TO YOUR SOLICITATION, PLEASE SELECT ONE OF THE FOLLOWING BOXES AND RETURN THIS FORM WITH YOUR BID/PROPOSAL SUBMISSION.

- Per Virginia Code § 2.2-4302.2 (3): “In the case of a proposal for information technology, as defined in § 2.2-2006, a public body shall not require an offeror to state in a proposal any exception to any liability provisions contained in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. The offeror shall state any exception to any liability provisions contained in the Request for Proposal in writing at the beginning of negotiations, and such exceptions shall be considered during negotiation.”
- Per Virginia Code § 2.2-4302.2 (4): “For architectural or engineering services, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations.”

*This document shall be completed & returned with proposal submission.

BID PROPOSAL

Proposal of _____ (hereinafter called "Bidder"), organized and existing under the laws of the State of _____ doing business as _____*. To the TOWN OF ABINGDON, VIRGINIA (hereinafter called "Town").

In accordance with your Advertisement for Bids, Bidder hereby proposes to perform all work for the construction of ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, each Bidder certifies, and in the case of a joint Bid each party hereto certifies as to his own organization, that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed and to **fully complete the work as defined in the bid schedule by Monday, June 30, 2025**. Bidder further agrees to pay as liquidated damages, the sum of \$500.00 for each consecutive calendar day thereafter.

Bidder acknowledges receipt of the following Addendum:

Bid security in the amount of 5% of the amount bid in the form of (BID BOND) (CERTIFIED CHECK) is submitted herewith.

***Insert "a corporation", "a partnership", or "an individual" as applicable.**

BASE BID SCHEDULE

Bidder agrees to perform all the work described in the Contract Documents. Each unit price for the items listed on the Proposal shall include mobilization, traffic control, coordination with Town personnel, materials, labor and incidentals associated with the specific item of work and proper disposal of any waste items. Unit prices quoted and accepted shall apply throughout the life of the contract, except as otherwise specifically noted. Unit prices shall be applied, as appropriate, to compute the total value of work completed and of changes in the scope of the work, all in accordance with the contract documents. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the correct multiplication of unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. The following unit prices complete in place, which shall include sales tax and all other applicable taxes and fees:

Price per unit to furnish all supervision, labor, tools, equipment, materials and any other incidentals necessary to remove existing guardrail, anchors of any type and all miscellaneous guardrail components and legally dispose of off Owners Property.

Line Item	Unit	Description	Unit Cost
1	Linear Foot	Remove & Dispose of Existing Guardrail and Components	
2	Linear Foot	Steel Beam Guardrail, (with steel posts)	
3	Linear Foot	Steel Beam Guardrail, (with wooden posts)	
4	Linear Foot	Steel Beam Guardrail, Shop Curve, (various radii)	
5	Linear Foot	Weak Post Double Face Guardrail	
6	Each	Guardrail Anchor Units, Type CAT-1	
7	Each	Guardrail Anchor Units, Type AT-1	
8	Each	Guardrail Anchor Units, Type 350	
9	Each	Guardrail Anchor Units, Type M 350	
10	Each	Cable Guiderail Posts	
11	Each	Cable Guiderail Splices	
12	Each	Cable Guiderail Anchor Units	
13	Each	Additional Guardrail Posts & Blocks (Steel)	
14	Each	Additional Guardrail Posts & Blocks (Wooden)	
15	Each	Additional Steel Blocks	
16	Each	Additional Wooden Blocks	
17	Each	Additional Guardrail Weak Posts	
18	Each	Buffer End Section For CAT-1, AT-1 Anchor Units	
19	Each	Typical End Shoe	
20	Each	Terminal End Section	
21	Linear Foot	Steel Beam Guardrail, (rail only)	
22	Linear Foot	Guardrail with Pre-Punched Holes for Cable Assembly, (rail only)	
23	Each	Structure Anchor Unit, Type XI, (approach end)	
24	Each	Structure Anchor Unit, Type XIII, (trailing end)	
25	Each	Guardrail Structure Post	
26	Each	Impact Attenuator Unit	
27	Each	W-TR Steel Beam Guardrail Transition Section	
28	Linear Foot	Triple Corrugated Steel Beam Guardrail	
29	Each	Triple Corrugated Guardrail Terminal Section	
30	Each	Re-Tension Cable Guiderail	
31	Linear Foot	Re-Setting Existing Rail	
32	Linear Foot	New Cable Guardrail	

TOTAL COST OF ALL BID ITEMS: (\$ _____). (In figures)

(IN WORDS)

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto the Town of Abingdon, Virginia, as OWNER in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns. Signed, this _____ day of _____, 20____. The Condition of the above obligations such that whereas the Principal has submitted to _____ a certain BID, attached hereto and made a part hereof to enter into a contract in writing for the:

ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES

NOW, THEREFORE,

(a) If said BID shall be rejected, or

(b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the

Form of Contract attached hereto (properly completed in accordance with said BID), and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID.

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

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

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

Principal (L. S.)

Surety

By: _____

IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____ hereinafter called
Principal and _____
(Corporation, Partnership or Individual)

(Name of Surety)

(Address of Surety)

Hereinafter called SURETY, are held and firmly bound unto the:

TOWN OF ABINGDON
P. O. BOX 789
ABINGDON, VIRGINIA 24212

Hereinafter called OWNER, in the penal sum of _____
Dollars, (\$ _____) in lawful money of the United States for the payment of which sum well and truly to
be made, we bind successors, assigns, and ourselves jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with OWNER,
dated the _____ day of _____, 2024, a copy of which is hereto attached and made a part hereof
for the construction of:

ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES

NOW, THEREFORE, if the Principal shall well promptly make payment to all persons, firms, SUBCONTRACTORS, and
corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract,
and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline,
coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of
such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by
SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of
time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the
SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive
notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to
the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any
beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____(number) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 2024.

ATTEST:

Principal

(Principal) Secretary

By: _____(s)

(SEAL)

(Address)

(Witness as to Principal)

(Address)

Surety

ATTEST:

By: _____

Attorney in Fact

Witness as to Surety

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____ hereinafter called
Principal and
(Corporation, Partnership or Individual)

(Name of Surety)

(Address of Surety)

Hereinafter called SURETY, are held and firmly bound unto the:

TOWN OF ABINGDON
P. O. BOX 789
ABINGDON, VIRGINIA 24212

Hereinafter called OWNER, in the penal sum of _____
Dollars, (\$ _____) in lawful money of the United States for the payment of which sum well and truly to
be made, we bind successors, assigns, and ourselves jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with OWNER,
dated the _____ day of _____, 2024, a copy of which is hereto attached and made a part hereof
for the construction of:

ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES

NOW, THEREFORE, if the Principal shall well promptly make payment to all persons, firms, SUBCONTRACTORS, and
corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract,
and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline,
coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of
such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by
SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of
time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the
SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive

notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____(number) counterparts, each one of which shall be deemed an original, this the _____ day of _____, 2024.

ATTEST:

Principal

(Principal) Secretary

By: _____(s)

(SEAL)

(Address)

(Witness as to Principal)

(Address)

Surety

ATTEST:

By: _____

Attorney in Fact

Witness as to Surety

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.

This Page Was
Intentially
Left Blank

NOTICE OF AWARD



TO:

PROJECT DESCRIPTION: **ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES**

The OWNER has considered the BID submitted by you for the above-described WORK in response to its Advertisement for Bids dated _____ and information for Bidders.

You are hereby-notified that your BASE BID has been accepted for items in the amount of \$_____. You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

This the _____ day of _____, 2024.

By _____ Title _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD hereby acknowledges.

By _____

This the _____ day of _____, 2024.

By _____

Title _____

AGREEMENT

AGREEMENT BETWEEN

CONTRACTOR: _____, AND

TOWN OF ABINGDON FOR

ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES

This Agreement entered into on the ___ day of _____, 2024, by and between _____, having offices at _____, _____, _____ (Federal EIN # _____), and hereafter called “**Contractor**”, and **Town of Abingdon**, a political subdivision of the Commonwealth of Virginia, having its administrative office at 133 West Main Street, Abingdon, Virginia, 24210, and hereafter called “**the Client**”, “**Town of Abingdon**” or “**Town**”.

WITNESSETH:

WHEREAS, Client has procured services of the Contractor through sealed Invitation to Bid for ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES and confirmed through bid analysis by the Town Staff and authorized for Award by the Council of the Town of Abingdon.

WHEREAS, Contractor desires to provide the Client with such goods/services as authorized by the Client, and represents that it is organized and authorized to conduct business within the Commonwealth of Virginia;

NOW, THEREFORE, for and in consideration of the promises, the mutual benefits to the parties from entering into this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.

SECTION 1. STATEMENT/SCOPE OF WORK.

- A. Contractor will provide services to Client as set forth in the attached Scope of Services (“Scope of Services”/“Services”) attached hereto as Exhibit A and a part hereof.
- B. Contractor will use its staff and may use Subcontractors to provide the Services to Client.
- C. Contractor, its Subcontractors, and their respective employees, are and shall remain independent contractors in performing the Services under this Agreement.

- D. Services shall be performed and completed by Contractor within the time frames set forth in the Scope of Services, time being of the essence of this provision.

SECTION 2. TERM

- A. **Term.** This Agreement shall commence on ____, 2024, and shall continue until ____, 2025, when work shall be completed, but may be extended for a period of time upon mutual agreement by both parties, but shall remain subject to termination pursuant to the terms of this Agreement or for non-appropriation of funding by Client.

SECTION 3. RESPONSIBILITIES OF CONTRACTOR.

- A. Contractor will not substitute staff or Subcontractors assigned to this Agreement without the prior written consent of Client.
- B. Contractor will provide all services under this Agreement in a manner consistent with applicable laws, professional standards and its best efforts.
- C. Contractor, its staff and Subcontractors shall comply with Client’s standards for acceptable workplace conduct and safety, and shall all times conduct themselves in a professional manner.

SECTION 4. RESPONSIBILITIES OF THE CLIENT.

- A. Upon satisfactory completion of the work specified in the Scope of Work, the Client shall pay to Contractor ____ dollars and __ cents (\$_____.00).

SECTION 5. ADMINISTRATION OF THE AGREEMENT.

- A. All notices and communications with respect to the terms of this Agreement and the performance of the Services shall be through the Party Representatives. The Party Representatives are:

Client’s representative shall be:

Michael Surrett_____

Name

Public Works Director_____

Title

(276) 628-2361

Phone Number

msurrett@abingdon-a.gov

Email

Contractor representative shall be:

Name

Title

Phone Number

Email

- B. ***Incorporated Provisions.*** This Agreement shall be performed in accordance with any applicable, required contractual provisions set forth in the Client’s purchasing or procurement regulations, and the Virginia Public Procurement Act, §§ 2.2-4300, *et seq.*, Virginia Code, in effect at the time of this Agreement, pertaining to non-discrimination § 2.2-4310 and - 4311, compliance with immigration laws § 2.2-4311.1, drug-free workplace § 2.2-4312, which provisions are incorporated herein by reference.
- C. ***Contractual.*** Disputes with respect to this Agreement shall be governed by Virginia Code § 2.2-4363 or similar provision in Client’s purchasing or procurement ordinances or procedures.
- D. ***Ownership and Status of Documents.***
- (1) Contractor shall maintain financial records, supporting documents, statistical records, and other records pertinent to this Agreement for three (3) years from the date of final payment, and make those records available to the Client upon written request.

SECTION 6. GENERAL TERMS AND CONDITIONS

- A. The General Terms and Conditions of Exhibit B are incorporated as if fully set forth.

SECTION 7. SEVERABILITY.

If, for any reason, any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remaining parts, terms, and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be illegal, invalid, void, or unenforceable.

{{SIGNATURE PAGES TO FOLLOW}}

IN WITNESS WHEREOF the parties hereto have caused this AGREEMENT to be executed the day and year first hereinabove written.

THE TOWN OF ABINGDON,
a Virginia municipal corporation

By: _____

Title: _____

APPROVED AS TO FORM:

Town Attorney

Contractor: _____

By: _____

Title: _____

NOTICE TO PROCEED



TO:

DATE:

PROJECT DESCRIPTION: **ANNUAL GUARDRAIL INSTALLATION, REPAIR AND MAINTENANCE SERVICES**

You are hereby notified to commence work in accordance with the Agreement dated _____, on or after _____ and you are to **complete the WORK before Monday, June 30, 2025.**

This the _____ day of _____, 2024.

By _____ Title _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED hereby acknowledged

By _____

This the _____ day of _____, 2024.

By _____ Title _____

GENERAL TERMS AND CONDITIONS

- A. ADVERTISING:** In the event an agreement is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the Town of Abingdon will be used in product literature or advertising. The Contractor shall not state in any of its advertising or product literature that the Town of Abingdon has purchased or uses any of its products or services, and the Contractor shall not include the Town of Abingdon in any client list in advertising and promotional materials, unless the contractor has been given written permission by a Town of Abingdon representative who is authorized to sign on behalf of the Town of Abingdon.
- B. ANTI-TRUST:** The Contractor conveys, sells, assigns, and transfers to the Town of Abingdon 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 Town of Abingdon under said contract.
- C. APPLICABLE LAWS & COURTS:** This procurement transaction, and any resulting contract, shall in all aspects be governed by the laws of the Commonwealth of Virginia, notwithstanding conflicts of laws provisions and any litigation with respect thereto shall be brought in the courts of the Commonwealth in Washington County, Virginia or in the United State District Court of Abingdon. The Town of Abingdon and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using the dispute resolution process. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- D. ASSIGNMENT OF CONTRACT:** An Agreement shall not be assignable by the Contractor in whole or in part without the written consent of the Town of Abingdon.
- E. AUTHORITY TO TRANSACT BUSINESS:** Pursuant to Virginia Code § 2.2-4311.2 and in accordance with Title 13.1, Title 50, or as otherwise required by law, the Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized by the State Corporation Commission to transact business in the Commonwealth as a domestic or foreign business entity and shall maintain registration as current through the life of the awarded Agreement.
- F. AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Town of Abingdon shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Agreement.
- G. CANCELLATION OF AGREEMENT:** The Town of Abingdon may terminate any agreement resulting from this solicitation at any time, for any reason or for no reason, upon thirty days' advance written notice to the Contractor. In the event of such termination, the Contractor shall be compensated for services and work performed prior to termination.
- H. CERTIFICATION REGARDING NON-SEGREGATED FACILITIES:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, by the execution of this Agreement, the Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The Contractor further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, national origin, age or handicap, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification from proposed subcontractors and material suppliers for specific time periods, it will obtain identical certification from proposed subcontractors or material suppliers prior to the award of subcontracts or the consummation of material supply agreements exceeding ten thousand dollars, and that it will retain such certifications in its files.
- I. CHANGES TO THE CONTRACT:** Changes can be made to the Agreement in any of the following ways:
- The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. No fixed price contract may be increased by more than twenty-five percent (25%) of the amount of the contract or \$50,000, whichever is greater, without the advance approval of the Town Manager or designee, and under no circumstances may the amount of this contract be increased, without adequate consideration, for any purpose (including, but not limited to, relief of the Contractor from the consequences of an error in its bid or offer).
 - The Town of Abingdon may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Town of Abingdon a credit for any savings. Said compensation shall be determined by one of the following methods:
 - By mutual agreement between the parties in writing; or
 - By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Town's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Town of Abingdon with all vouchers and records of expenses incurred and savings realized. The Town of Abingdon shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Town of Abingdon within thirty (30) days from the date of receipt of the written order from the Town of Abingdon. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Town of Abingdon or with the performance of the contract generally.
- J. CLARIFICATION OF TERMS:** The Town of Abingdon will assume no responsibility for oral instructions, suggestion or interpretation. Any question regarding the offer documents and/or specifications shall be directed to the Town Manager or designee and any material change will be submitted to all Offerors through issuance of an addendum. Any questions related to this solicitation MUST be submitted to the contact named on the first page of this solicitation no fewer than seven (7) work days prior to the bid opening or proposal closing date specified. Questions should be in writing and electronic transmission is preferred. Questions submitted beyond the time specified above may be left unanswered if sufficient time does not allow a response to all prospective Offerors without causing an unacceptable delay in the process. Any contact with any Town of Abingdon representative, other than that outlined within this solicitation, concerning this solicitation is prohibited. Such unauthorized contact may disqualify your firm from this procurement.
- K. COLLUSIVE OFFERS:** The offer of any Offeror or Offerors who engage in collusive practices shall be rejected. Any Offeror who submits more than one offer in such manner as to make it appear that the offers submitted are not on a competitive basis from different parties shall be considered a collusive

Offeror. The Town of Abingdon may reject the offer of any collusive Offeror upon bid opening or proposal closing. However, nothing in this section shall prevent an Offeror from superseding an offer by a subsequent offer delivered prior to bid opening or proposal closing which expressly revokes the previous offer.

- L. COMPLIANCE WITH ALL LAWS:** Contractor shall comply with all federal, state, and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of scope of work set forth herein. Contractor represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work. The Contractor shall keep fully informed of all federal, state, and local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on this Agreement, or which in any way affect the conduct of the services provided by the Contractor. It shall at all times observe and comply with, and shall cause its agents, subcontractors and employees to observe and comply with, all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Town of Abingdon Virginia and its employees and appointees against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself or its agents, subcontractors or employees. If any discrepancy or inconsistency is discovered between this Agreement and any such law, ordinance, regulation, order, or degree, the Contractor shall immediately report the same to the Town of Abingdon in writing.
- M. COMPLIANCE WITH LOBBYING RESTRICTIONS:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, by signing an Agreement, the Contractor certifies that:
- Since promulgation of the federal requirements implementing Section 319 of PL 101-121, no federal appropriated funds have been paid and none will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
 - If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 - The Contractor shall require that the language of this certification be included in all subcontracts at all tiers, and that all subcontractors shall certify and disclose accordingly.
- N. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The Contractor assures that, in the event that any awarded agreement involves information and data obtained as to personal facts and circumstances related to patients, students or clients, such information and data will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the Town's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the Town of Abingdon of any breach or suspected breach in the security of such information. Contractors shall allow the Town of Abingdon to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees, subcontractor or agents working on this project may be required to sign a confidentiality statement.
- O. CONTRACTOR'S FORMS/BOILERPLATE CONTRACTS:** All written agreements, contracts, service agreements, account applications, forms and other documents, of any nature, that the Contractor would require the Town of Abingdon to sign in connection with any contract resulting from this procurement transaction, or the performance thereof by the Contractor, must be submitted along with the Contractor's offer. Under no circumstances shall the Town of Abingdon be required to agree to any contractual provision (i) that would materially conflict with any provision of this solicitation, (ii) that would affect the price, quality, quantity or delivery schedule for any goods or services, or (iii) that would, in the Town of Abingdon's sole discretion, materially alter the overall combination of quality, price and various elements of required services that in total are optimal relative to the Town of Abingdon's needs, and the Contractor shall not condition its performance or delivery upon any such agreement by the Town of Abingdon.
- P. CONTRACTOR LICENSE REQUIREMENTS:** State statutes and regulatory agencies require that some firms be properly registered and licensed, or hold a permit, prior to performing specific types of services. If firms provide removal, repair, improvement, renovation or construction-type services they, or a qualified individual employed by the firm, must possess and maintain an appropriate State of Virginia Class A, B, or C Contractor License (as required by applicable regulations and value of services to be performed) for the duration of the Agreement. It is the firm's responsibility to comply with the rules and regulations issued by the appropriate State regulatory agencies. A copy of the license must be furnished upon request to the Town of Abingdon.
- Q. CONTRACTUAL CLAIMS:** Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. The Town of Abingdon has established an administrative procedure for consideration of contractual claims, and a copy of such procedure is available upon request from the Town of Abingdon. Contractual disputes shall also be subject to the provisions of Virginia. Code § 2.2-4363(D) and (E) (exhaustion of administrative remedies) and § 2.2-4364 (legal actions).
- R. CORRECTION OF ERRORS:** The Contractor shall check for accuracy any reports, and the design, drafting and details of final plans prior to submission. The Contractor will be required, without additional compensation, to correct any errors, including but not limited to omissions, discrepancies and ambiguities, in any services performed in fulfillment of the obligations of this Agreement, and shall also reimburse the Town of Abingdon Virginia for any costs incurred. Acceptance of the plans or reports by the Town of Abingdon Virginia shall not relieve the Contractor of the responsibility of subsequent correction of errors.
- S. DISADVANTAGED BUSINESS ENTERPRISES/SMALL, WOMAN AND MINORITY BUSINESS:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, the Contractor, its agents, employees, assigns, or successors, and any person, firm or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of 49 CFR Part 26, as amended, which is hereby made part of this Agreement by reference. The Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBE firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Subpart E of 49 CFR 26, Section 26.13 requires each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- T. DEBARMENT STATUS:** By submitting their offers, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting offers or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

- U. DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Town of Abingdon, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Town of Abingdon may have.
- V. DRUG-FREE WORKPLACE (applies to contracts of \$10,000 or greater); Pursuant to Virginia Code Section § 2.2-4312, during the performance of this Agreement, Contractor agrees as follows:**
 - A. Contractor will provide a drug-free workplace for Contractor's employees.
 - B. Contractor will 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 Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
 - C. Contractor will state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace.
 - D. Contractor will include the provisions of the foregoing Sections A, B, and C in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.
- W. Entire Agreement.** This Agreement and the documents to be delivered hereunder constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and the Exhibits, the statements in the body of this Agreement will control.
- X. ERROR IN EXTENSION OF PRICES:** In the case of error in the extension of prices the unit price shall govern.
- Y. ETHICS IN PUBLIC CONTRACTING:** Pursuant to Virginia Code § 2.2-4367: By submitting a bid, the bidder certifies that their bid is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- Z. EXPRESSION OF INTEREST INTERNAL CONTROLS:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, all firms submitting EOI (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet federal requirements for accounting. The Contractor acknowledges and agrees that it has such systems and that they comply with requirements of 48CFR31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23CFR172, "Administration of Negotiated Contracts." Contractor or any entity must submit their FAR audit data to the Town of Abingdon within ten work days of being notified of their selection. Should any firm on the consultant team fail to submit the required audit data within the ten work days, negotiations may be terminated by the Town of Abingdon and the next most qualified team invited to submit a proposal.
- AA. FORM W-9 REQUIRED:** Each offeror shall submit a completed W-9 form with their offer. In the event of contract award, this information is required in order to issue purchase orders and payments to your firm. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.
- BB. HEADINGS:** Section, article and paragraph headings contained within this solicitation have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this solicitation.
- CC. HOLD HARMLESS:** Bids/Proposal shall provide that during the term of the contract, including warranty period, for the successful bidder/offeror indemnifying, defending, and holding harmless the Town, its officers, employees, agent and representatives thereof from all suits, actions, claims of any kind, including attorney's fees, brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect in safeguarding contract work, or on account of any act or omission by the contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The vendor agrees that this clause shall include claims involving infringement of patent or copyrights.
- DD. IDLING REDUCTION REQUIREMENT:** For any work performed within the Town of Abingdon, Contractors are required to comply with the Town of Abingdon's Idling Reduction Policy for Motor Vehicles and Equipment.
- EE. IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written agreement with the Town of Abingdon, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- FF. INCLEMENT WEATHER/CLOSURE OF TOWN OFFICES:** If the Town of Abingdon is closed for business at the time scheduled for bid opening or proposal closing, for whatever reason, sealed offers will be accepted and opened on the next scheduled business day, at the originally scheduled time.
- GG. INDEMNIFICATION:** Contractor hereby assumes, and shall defend, indemnify and save the Town of Abingdon and all of its officers, agents and employees harmless from and against any and all liability, loss, claim, suit, damage, charge or expense including attorney fees which the Town of Abingdon and all of its officers, agents and employees may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person (including, without limitation, Town of Abingdon officers, agents, employees, licensees and invitees) and for damage to, loss of, and destruction of any property whatsoever, which arises out of, results from, or is in any way connected with actions taken by the Contractor in the performance of its obligations under this Agreement, or which occurs as a consequence of any negligence, omission or misconduct of the Contractor and any of Contractor's subcontractors, agents or employees in the performance of Contractor's or any of its subcontractors, agents or employees in performing work under this contract, regardless of whether such loss or expense is caused in part by a party indemnified hereunder. Pursuant to Virginia law, the Town of Abingdon, Virginia may not indemnify any party for any purpose. Any provisions in this agreement providing to the contrary are hereby deleted.
- HH. INSURANCE:** By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will purchase and maintain, at its sole expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the types of coverages and minimum limits specified in this paragraph, protecting from claims which may arise out of or result from the Offeror's performance or non-performance of services under this Contract, or the performance or non-performance of services under this Contract by anyone directly or indirectly employed by the Offeror or for whose acts it may be liable.

Minimum Limits
 General Liability:
 \$1,000,000 General Aggregate Limit
 \$1,000,000 Products & Completed Operations
 \$1,000,000 Personal and Advertising Injury
 \$1,000,000 Each Occurrence Limit
 \$ 50,000 Fire Damage Limit

\$ 5,000 Medical Expense Limit

Automobile Liability: Coverage sufficient to cover all vehicles owned, used, or hired by the CONTRACTOR, his agents, representatives, employees or subcontractors.

Minimum Limits

Automobile Liability:

\$1,000,000 Combined Single Limit

\$1,000,000 Each Occurrence Limit

\$5,000 Medical Expense Limit

Workers' Compensation: Limits as required by the Workers' Compensation Act of Virginia. Employer's Liability: \$1,000,000

- II. Interpretation; Construction.** The terms of this Agreement have been fully negotiated by the parties, and no party is deemed to be the drafter of this Agreement. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. The parties agree that the Agreement is clear on its face and that parol evidence will not be discoverable or admissible during any litigation regarding the Agreement.
- JJ. NEW EQUIPMENT:** Unless otherwise noted any equipment offers shall be new, unused, of current production and standard to the manufacturer. Where any part or nominal appurtenances of equipment are not described it shall be understood that all equipment and appurtenances standard to or recommended by the manufacturer for complete and safe use shall be included as part of this offer.
- KK. No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- LL. NON-DISCRIMINATION:** By submitting their bids or proposals, offerors certify to the Town of Abingdon that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginias with Disabilities Act, the Americans with Disabilities Act and Virginia Code § 2.2-4311. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipients religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Virginia Code § 2.2-4343.1(E)).

Every contract over \$10,000 shall include the provisions:

1. During the performance of this contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, shall state that it is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Contractor will include the provisions of No. 1 above in every subcontract or purchase order over \$10,000, so that the provision will be binding upon each subcontractor or vendor.

- MM. NON-DISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the Town of Abingdon has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- NN. NON-DISCRIMINATION BY TOWN OF ABINGDON:** The Town of Abingdon as a public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 11-35.1 or against a bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment.
- OO. OFFER ACCEPTANCE:** Bids or Proposals (Offers) must be submitted by the date and time stated in this solicitation. Offers will be date and time stamped upon receipt and retained unopened in a secure location until proposal opening. No consideration will be given to date of postmark or error in delivery to incorrect address. It is the responsibility of the offeror to ensure timely and correct delivery of Offer.
- PP. OSHA STANDARDS:** All Contractors and subcontractors performing services for the Town of Abingdon are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and 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.
- QQ. OWNERSHIP OF DOCUMENTS:** All information, documents, and electronic media furnished by the Town of Abingdon to the Contractor belong to the Town, are furnished solely for use in connection with the Contractor's performance of Services required by this Agreement, and shall not be used by the Contractor on any other project or in connection with any other person or entity, unless disclosure or use thereof in connection with any matter other than Services rendered to the Town of Abingdon hereunder is specifically authorized in writing by the Town of Abingdon in advance. All documents or electronic media prepared by or on behalf of the Contractor for the Town of Abingdon are the sole property of the Town of Abingdon, free of any retention rights of the Contractor. The Contractor hereby grants to the Town of Abingdon an unconditional right of use, for any purpose whatsoever, documents or electronic media prepared by or on behalf of the Contractor pursuant to this Agreement, free of any copyright claims, trade secrets, or any other proprietary rights with respect to such documents.

RR. PAYMENT:

- a. To Prime Contractor:
 - i. The Town of Abingdon shall promptly pay for completed delivered goods or services by the required payment date. The required payment date shall be either: (i) the date on which payment is due under the terms of a contract for the provision of goods or services, or (ii) if a date is not established by contract, not more than 45 days after goods or services are received or not more than 45 days after an invoice is rendered, whichever is later. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial executions or deliveries to the extent that the contract provides for separate payment for partial execution or delivery. Within 20 days after the receipt of an invoice for goods or services, the Town of Abingdon shall notify the supplier of any defect or impropriety that would prevent payment by the required payment date. In the event that the Town of Abingdon fails to make payment by the required payment date, the Town of Abingdon shall pay any finance charges assessed by the supplier that shall not exceed one percent per month. In cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made.
 - ii. Individual contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide the Town of Abingdon with a federal employer identification number, prior to receiving any payment from the Town of Abingdon.
 - iii. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the Town of Abingdon contract number and/or purchase order number.
 - iv. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which Town of Abingdon department is being billed.
 - v. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Town of Abingdon shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve any Town of Abingdon department of its prompt payment obligations with respect to those charges which are not in dispute (Virginia Code § 2.2-4363).
- b. To Subcontractors:
 - i. A Contractor awarded a contract under this solicitation is hereby obligated:
 - a. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Town of Abingdon for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - b. To notify the Town of Abingdon and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
 - ii. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Town of Abingdon, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Town of Abingdon.

SS. PERMITS AND FEES: All offers submitted shall have included in price, the cost of any business or professional licenses, permits or fees required by the Town of Abingdon or the Commonwealth of Virginia. The offeror must have all necessary licenses to perform the services in Virginia and, if practicing as a corporation, be authorized to do business in the Commonwealth of Virginia.

TT. PRECEDENCE OF TERMS: In the event there is a conflict between any of the other General Terms and Conditions and any Specific Terms and Conditions in this solicitation, or as incorporated from a request for proposal or invitation to bid, the Specific Terms and Conditions shall apply.

UU. PUBLIC INSPECTION OF CERTAIN RECORDS: Contractor acknowledges and agrees that except as otherwise provided, and in accordance with Virginia Code § 2.2-4342, all proceedings, records, contracts and other public records relating to the Town of Abingdon's procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 et seq.). Any offeror, upon request, shall be afforded the opportunity to inspect bid or proposal records within a reasonable time after the opening of all bids but prior to award, except in the event the Town of Abingdon decides not to accept any of the offers and to reopen the solicitation. Otherwise, bid or proposal records shall be open to public inspection only after award of the contract. Trade secrets or proprietary information submitted by a offeror in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, but only if the offeror (i) invokes the protections of Virginia Code § 2.2-4342 prior to or upon submission of the data or other materials; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. A general designation of a contractor's entire bid or proposal submission or volume as being "confidential" shall not be sufficient to invoke the protections referenced above.

VV. QUALIFICATIONS OF OFFERORS: The Town of Abingdon may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the services/furnish the goods and the Offeror shall furnish to the Town of Abingdon all such information and data for this purpose as may be requested. The Town of Abingdon reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. The Town of Abingdon further reserves the right to reject any offer if the evidence submitted by, or investigations of, such Offeror fails to satisfy the Town of Abingdon that such Offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

WW. RECORDS: The Contractor and subcontractors shall retain all books, documents, papers, accounting records and other evidence supporting the costs incurred, for three (3) years after payment of the final estimate or final audit, whichever is later. Such evidence shall be made available at the Contractor's offices at all reasonable times and will be subject to audit and inspection by the Town of Abingdon Virginia or any authorized representatives of the Federal Government.

Evidence of costs incurred by a subcontractor shall be made available at its office at all reasonable times during the contract period between the Contractor and the subcontractor and for three years after written acceptance by the Contractor, for audit and inspection by the Town of Abingdon Virginia or any authorized representatives of the Federal Government. It shall be the Contractor's responsibility to notify the Town of Abingdon Virginia, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the Contractor's liability for any costs not supported by the proper documentation for the subcontractor's phase of the services. Final payment for the subcontractor's phase of the services will be made after total costs are determined by the final audit of the subcontractor.

- XX. RIGHT TO ACCEPT OR REJECT OFFERS:** The Town of Abingdon reserves the right to accept or reject any or all offers in whole or in part and to waive any informality in the offer. Informality shall be defined as a minor defect or variation from the exact requirements which does not affect the price, quality, quantity or delivery schedule.
- YY. Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- ZZ. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:** It is the policy of the Town of Abingdon to facilitate the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities and service disabled veterans and to encourage their participation in the Town of Abingdon's procurement activities. Toward that end, the Town of Abingdon encourages these firms to compete and encourages other firms to provide for the participation of these firms through partnerships, joint ventures, subcontracts or other contractual opportunities. Offerors are asked, as part of their submission, to describe any planned use of such business in fulfilling this contract. Upon request, a list of certified businesses under this requirement shall be made available.
- AAA. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to Virginia Code § 2.2-4311.2(B), an Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). 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 or as otherwise required by law is required to include in its bid or proposal a statement describing why the Offeror is not required to be so authorized. Link to the Virginia State Corporation Commission site: <http://www.scc.virginia.gov/>.
- BBB. Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.
- CCC. TAXES:** Contractor acknowledges and agrees that The Town of Abingdon is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate indicating the Town of Abingdon's tax-exempt status will be furnished by the Town of Abingdon upon request.
- DDD. TDD/TTY EQUIPMENT FOR THE DEAF:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, when seeking public participation through the maintenance of a toll free hot line number and/or publishing project-related materials, the Contractor agrees to ensure that all citizens have equally effective communication. The Contractor agrees to provide or identify a telecommunications device for the deaf/teletypewriter (TDD/TTY) or acceptable means of telephone access for individuals with impaired speech or hearing. The Contractor will provide notice of a TDD/TTY number whenever a standard telephone number is provided.
- EEE. TERMS:** The terms and conditions set forth above within this solicitation shall be deemed incorporated into any agreement resulting from this procurement transaction, as if set forth therein verbatim.
- FFF. TESTING AND INSPECTION:** The Town of Abingdon reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- GGG. TRANSPORTATION AND PACKAGING:** All prices submitted must be FOB Destination - Freight Prepaid and Allowed. By submitting their offers, all offerors certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- HHH. USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the Town of Abingdon, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Town of Abingdon to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the offeror clearly indicates in its bid or proposal that the product offered is an equal product, such offer will be considered to offer the brand name product referenced in the solicitation.
- III. VIRGINIA GOVERNMENTAL FRAUDS ACT:** Each offeror is and shall be subject to the provisions of the Virginia Governmental Frauds Act, Virginia Code, Title 18.2, Chapter 12, Article 1.1. In compliance with this law, each offeror is required to submit a certification that its offer, or any claim resulting there from, is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce, or any act of fraud punishable under the Act. Any offeror who knowingly makes a false statement on the Certificate of No Collusion shall be guilty of a felony, as provided in Virginia Code § 18.2-498.5. As part of this offer a notarized Certificate of No Collusion must be submitted with the offer. Certificate attached.
- JJJ. Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving.