



City of Hickory Request for Proposals and Contract

Project Title:

Number:

Advanced Metering Infrastructure Project

25-005

<u>SUBMIT SEALED PROPOSALS TO:</u> City of Hickory, Public Utilities 1441 9 th Ave NE, Hickory, NC 28601 PO Box 398 Hickory NC 28603	<u>DIRECT INQUIRIES TO:</u> William Hamblin whamblin@hickorync.gov Phone (828) 323-7427
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INVITATION AND PROPOSER INFORMATION

<u>Vendor Name:</u>	<u>Point of Contact:</u>
<u>Mailing Address:</u>	
<u>City:</u>	<u>State:</u>
<u>Zip:</u>	
<u>Area Code and Phone Number:</u>	<u>Email Address:</u>
<u>Federal Employer Identification Number or Social Security Number:</u>	

THIS PROPSAL INVALID IF NOT SIGNED AND NOTARIZED

AFFIDAVIT:

STATE OF _____ **COUNTY OF** _____, of lawful age, being first duly sworn, on oath says that:

1. Affiant is the duly authorized agent of the proposer/vendor and/or contractor submitting the competitive proposal and executing the contract which is attached to this statement, and that as such agent, Affiant has the authority to bind the proposer/vendor, whether an individual, partnership, or corporation, for the purpose of negotiating and entering into said agreement, and for certifying the facts pertaining to the existence of collusion among proposers and between proposers and City officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the proposal to which this statement is attached;
2. Affiant is fully aware of the facts and circumstances surrounding the making of the proposal and/or the procurement of the contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the submission of such proposals;
3. Neither the proposer/vendor nor anyone subject to the proposer/vendor's direction or control has been a party:
 - a. to any collusion among proposers in restraint of freedom of competition by agreement to proposal at a fixed price or to refrain from proposing;
 - a. to any collusion with any municipal official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract;
 - b. in any discussions between proposers and any municipal official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
 - c. to paying, giving or donating or agreeing to pay, give or donate to any officer or employee of the City of Hickory any money or other thing of value, either directly or indirectly, in procuring the contract to which his statement is attached.
4. Affiant further agrees to be held personally liable in the event that Affiant has misrepresented the scope or extent of Affiant's authority to bind the proposer herein, and to indemnify and hold harmless the City of Hickory, its departments, boards, commissions, agencies, institutions, and all employees of the aforementioned from all damages based upon such misrepresentation, including, but not limited to, all costs and attorney fees incurred, in addition to any other remedies available by law.

SIGNATURE OF AUTHORIZED AGENT

FIRM: _____

PRINT/TYPE NAME/TITLE

ADDRESS: _____
(City, State, Zip)

Subscribed & sworn before me this ___ day of _____, 20__.

PHONE: _____

Notary Public

My Commission Expires: _____

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IMPORTANT INFORMATION AND INSTRUCTIONS

DOCUMENTS WITHIN THIS RFP: The pages of this agreement consist of:

- a. Invitation and Proposer Information
- b. Important Information and Instructions
- c. Scope of Work
 - a. Appendix A - To-Be High-Level System Context Diagram
 - b. Appendix B - Potential Network Infrastructure Sites
 - c. Appendix C - Service Territory Map
 - d. Appendix D - Meter Population
 - e. Appendix E - Acceptance and Payment Criteria
- d. Proposal Format
- e. General Conditions
- f. Special Conditions
- g. Proposal Form and General Contract
- h. Consulting Services Agreement
- i. Terms and Conditions for Professional Services
- j. Proposal Attachments
 - a. Attachment A - Questionnaire
 - b. Attachment B - Requirements Workbook
 - c. Attachment C - Fee Proposal Workbook

1. IMPORTANT DATES

Advertise invitation to proposal beginning October 7, 2024
 Proposer questions due October 28, 2024
 Answers posted November 11, 2024
 Proposal opening November 25, 2024
 Shortlist presentations January/February 2025
 Start contract negotiations March 2025

2. SUBMIT ALL PAGES

All pages of this document will be used as part of the contract. Proposers shall submit ALL pages of this document and supplemental pages with completed information.

3. PROPOSER SHALL WRITE ON THE OUTSIDE OF SUBMITTAL ENVELOPE:

- a. The name of the Utility Contractor
- b. The Project Title and Project Number
- c. Date of proposal opening

4. PROPOSAL COPIES:

Five (5) hard copies shall be submitted, in addition to digital copies on a thumb drive. Digital copies should be in PDF format and include Excel-versions of Attachments B and C.

5. PROPOSALS SHALL NOT BE QUALIFIED WITH ANY STATEMENTS ON THE PROPOSAL FORMS OR BY SEPARATE ATTACHMENT

6. EVALUATION AND SCORING

Proposals will be evaluated based on the following evaluation criteria:

Points	Factor	Description
20	Pricing	The evaluation of each proposer's pricing will be conducted using the lowest-cost proposal as a baseline.

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15	Requirements	Points may be awarded based on how well the proposal successfully demonstrates the following: the responses represent an understanding on the part of the vendor of requirements, and the requirements are appropriately addressed in the vendor's responses.
20	Viability, Methodology, and Approach	Points may be awarded based on how well the proposal successfully demonstrates the following: the proposal describes an organization that will meet and support the level of service expected for the duration of the project; the vendor has the project operational structure needed to successfully execute this project; the vendor has created a methodology to deliver the project as specified in this RFP and will be responsible for the overall project deliverables; and the proposed project team has the experience and bandwidth to implement the proposed methodology. Additionally, points may be awarded based on how well the proposal successfully demonstrates the following factors: the proposed implementation approach meets best practices for a project of this type, size, and environment; the proposed project timeline aligns with expectations; and the proposal indicates that the vendor has the required experience and has delivered satisfactory results for similar project requirements.
30	Solution Design and Architecture	Points may be awarded based on how well the proposal successfully demonstrates the following: the proposal describes a current and future overall system architecture that will meet and support the functionality and level of service and support expected, including meeting the goals identified; the proposed system architecture meets best practice and industry standard technology; and the proposal's clarity as it relates to the integration capabilities with other IT systems.
15	Experience, References, and Qualifications	Points may be awarded based on how well the proposal successfully demonstrates the following: evidence of experience for past water-related projects of similar size; vendor success in working with AMI and Installation Service vendors to complete "Turnkey" or "Multi-Contract" projects of similar or greater size and complexity; and positive references that demonstrate past success with work for previous clients involving products and services similar to the current project.

At its sole discretion and convenience, the City may determine which, if any, proposers will be interviewed. If the City elects to interview proposers, during the interviews, the selected proposers will be given the opportunity to provide a demo, and to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. Where applicable, the City will work with each firm to determine an interview and demonstration date and time that works for all parties. Based on these interviews, relative scores may be reassessed across all proposers. The City also reserves the right to use outside materials or expertise to reassess scores at any time, or to conduct any number of interviews as necessary to make a proper determination for award.

As part of the evaluation process, the City reserves all rights, including, but not limited to:

- a. Accept or reject any or all proposals, or alternative proposals, in whole or in part, that do not conform with the instructions herewith
- b. Waive, or not waive, informalities or irregularities in terms or conditions of any proposal if determined by the City to be in its best interest
- c. Request additional information from any or all proposers
- d. Reject any proposal that it determines, in its sole discretion, to be unresponsive and deficient in any of the information requested within the RFP

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- e. Determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or to revise the scope at any time before award
- f. Retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected
- g. Negotiate all final terms and conditions of any agreement entered into

Nothing in the RFP shall be deemed to commit the City to engage any proposer or firm.

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SCOPE OF WORK

1. COMPONENTS

The City requests proposals from qualified firms to provide equipment, software, and services for the utility’s Advanced Metering Infrastructure project. The required services and performance conditions are set forth herein and are summarized below as consisting of several parts (each individually referred to as a Component).

Component Number	Component Name	Description
1	Advanced Metering Infrastructure Field Area Network (AMI FAN)	Equipment, software, and services capable of delivering billing and interval reads from customer meters, including: network infrastructure and its installation; water meters; water endpoints; a headend system necessary to attain functionality and monitor network health; and integration services to tie the AMI headend to other business-critical systems
2	Installation Services	Installation for AMI meters/endpoints and other ancillary hardware related to the Project
3	Water Metering	Water meters and other hardware
4	Meter Data Management System (MDMS)	Software (a wholly separate and distinct software platform/offering from the AMI headend, or integrated as an add-on module or standard functionality within the AMI headend) and services for the long-term retention, validation, estimation, and editing of meter reads, as well as advanced analytic tools or engines to use the data, and integration services to tie the MDMS to other business-critical systems
5	Customer Portal	Software (pre-integrated as an additional module to the AMI headend or MDMS, or a wholly separate and distinct software platform/offering) and services for the visualization and presentation of data to customers, as well as to support customer service representatives, and integration services to tie the customer portal to other business-critical systems

A COMPLETE PROPOSAL SHALL INCLUDE ALL PROJECT COMPONENTS. Proposers are permitted to submit a joint proposal with multiple firms to provide a proposal that best meets the stated needs. It is the City’s intent to award a single implementation agreement to a prime firm for this project, but the City reserves the right to not award for some or all Components.

2. PROJECT IMPLEMENTATION PHASES, TIMELINE, AND TESTING

The overall implementation period is expected to span 24 months following approval, with the Design/Build/Test (DBT) comprising the first 12 months of this period (inclusive of a 6-month Initial Deployment Area (IDA)). This timing is tentative and subject to change. A final schedule will be developed between the selected proposer and the City, which will provide a reliable approach to the installation of the project, integrations and testing, and functional compliance.

Prior to meter installation taking place, the selected firm will be required to confirm system requirements and build those requirements into the design of the appropriate systems. Designs will be presented to the City who will provide feedback in an iterative process to define system architecture and functionality.

After having received sign-off on the design of the systems, the firm will install and configure the system appropriately, including integrations (which will require coordination with other vendors) and installation of any prerequisite network communications hardware.

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After initial stand-up, the firm is expected to conduct preliminary factory testing for accuracy, specification compliance, and functionality of specific components, interfaces, and enhancements. Once approved, the system will be handed to the City for testing, comprised of:

- Bench testing to verify factory testing
- Integration testing to ensure that data sets are received and transformed correctly, as well as ensuring that triggers are acting appropriately
- User acceptance testing to verify business processes across multiple systems, and to perform regression tests of the system as required

As a part of the DBT phase, the AMI project will include an IDA before proceeding to Full Deployment. Performing work in this manner reduces overall project risk and ensures that all systems, processes, and people are in a state of readiness to move into mass meter deployment. The IDA will comprise a small subset of the overall meter population, estimated at a sample size of 1% or less. These meters may or may not be geographically dispersed but are expected to represent all combinations of possible meter configurations.

The IDA will also serve as a way for the City to develop and test processes for installation workflow, field quality control, and quality assurance checks.

Field acceptance testing will occur to verify technical, functional, performance, informational, and commercial specifications have been realized as expected. With go-live approval, Full Deployment will begin, with mass meter changeouts occurring.

Final acceptance testing will be conducted to verify network and data integrity of all systems, with service level agreements checked and any final tuning done to ensure performance.

3. UTILITY BACKGROUND

a. Information Technology

The City is currently pursuing a cloud-based IT strategy. As a result, this RFP is requesting that any software systems proposed adhere to a Software as a Service (SaaS) model. A high-level dataflow and integrations systems context diagram is provided in Appendix A.

A list of potential assets for locating network infrastructure is given in Appendix B. Note that fiber or similar backhaul for network infrastructure is not available at these sites and cellular backhaul will need to be provided as a part of the proposed solution for any fixed RF-based solutions. Light poles, traffic lights, and other such locations are not available. Third-party locations available for lease may be proposed by Respondents.

b. Meter Operations

Meters are currently read in cubic feet and billed in gallons monthly using a combination of manual and drive-by methods. This unit conversion occurs within the City's billing system and should not affect the upstream AMI system collecting reads in cubic feet. A map of the service territory is given in Appendix C. There are 4 reading cycles that encompass 100 sequenced routes of varying size and density. During meter installation, a blackout window of several days prior and after the scheduled reading date of any given route will be required, though it is anticipated other routes would be available for changeout during this period. The City will work with the selected firm to develop a schedule to accommodate for blackout windows.

A full population of meters is given in Appendix D with service addresses that are geocode-able; approximately 95% of small meters (1.5" or smaller) are expected to be replaced, as well as a smaller number of large meters (2" or larger) that have stopped or are known to be inaccurate. Exchanges are expected to be like-for-like in size, with the exception of replacing 5/8" with 3/4" meters; lay length and

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tailpiece pipe threads are such that no modifications to piping should be necessary. Consumables (washers, gaskets, etc.) will not be provided by the City.

The City is currently contemplating only mechanical meters but is also requesting optional pricing for remote disconnect meters and for electronic meters on 1.5" and larger sizes. The City is also requesting that the installation vendor test a percentage of new meters upon delivery for quality assurance purposes.

The City expects to be able to provide a staging area for deployment, which includes fencing, room for parking, office space, restrooms, and storage containers; however, optional pricing for warehousing and other staging will also be requested. For pulled meters brought back to the staging area, the onus of responsibility will lie with the installation vendor to scrap and provide brass credit to the City at a mutually agreed-upon percentage.

Nonstandard work, such as for valve replacements, box moving/replacements, lay length adjustments, and meter raising/lowering is not anticipated, but the City is requesting optional pricing for these services for further consideration.

All meters should be assumed to be located outdoors. Meters are generally easily accessible. Virtually all meters are located within the yard of a customer's property, though some exist in sidewalks. Some areas may have an easement in the neighboring property. Traffic control procedures not thought to be extensive, but some closures may be required depending on the location, for which the City will work with the installation vendor to coordinate. It is estimated that few, if any, boxes contain more than one meter. The centerline of a meter body in the pit is typically 12-18" from the underside of the lid and should be assumed to accommodate an endpoint. For most meters, curbs stops are located within the meter box on the customer-side of the meter, though some larger are located outside the box or in the road but an estimate cannot be given as to their extent. Valves, boxes, and lids are not keyed. 1-1/2" and 2" meters should be assumed to all use flanged connections. Only about 10% of larger meters (3" and larger) have bypass assemblies. Any meters located in vaults should be considered OSHA-defined confined space.

Soil conditions are generally clay-like; however, it is not expected that an inordinate amount of digging will be required to access meter nuts. Hickory has standardized around the MBX2 box, though some non-standard boxes exist in the population. The vast majority of boxes are made of cast iron, while lids are made of steel. Currently, the City is plasma cutting lids, and about 20% of lids have holes to accommodate antennas for radio read. Meter box lids may require drilling and/or replacement depending on AMI requirements and the selected technology; as a result, Hickory is requesting pricing for both drilling and replacement.

Comprehensive information on service line material is not available but can be estimated. On the utility-side it is estimated that 70% of line is copper, 10% is galvanized steel, and 20% is PVC; on the customer-side, it is estimated that 80% of line is copper, 2% is galvanized steel, 15% is plastic, and the remaining amount comprised of assorted materials. Lead is thought to be limited throughout the territory, but there remain a number of lines of unknown composition that will require surveying by the installation vendor.

An opt-out policy is not planned on being instituted at this time, and it is expected that AMI conversion of the whole meter population will occur.

4. PROGRAM GOALS AND OBJECTIVES

The City has developed a list of goals & objectives for this Project. These goals & objectives were used in the development of requirements, and proposers should, to the extent possible, consider and address these goals & objectives in their responses to this RFP.

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Goals—desired achievements of the project	Objectives—measures, steps, and outcomes to achieving goals
Provide reliable, accurate billing to customers	<ul style="list-style-type: none"> • Ensure enforceable network and read rate service levels for the AMI solution are in place • Reduce manual effort needed for billing exception handling and bill generation • Reduce the number of re-reads and estimated reads being done on a monthly basis
Implement meters that fit the needs of Hickory	<ul style="list-style-type: none"> • Install meters that accurately register customer flow by replacing 5/8” meters with 3/4” meters • Install meters able to measure customer usage across a larger flow range • Install meters to accommodate operating pressures at the higher range to mitigate failures
Address end-of-life metering needs	<ul style="list-style-type: none"> • Replace currently failing meters, registers, and equipment to prevent widespread system failure • Prioritize areas with the most need during deployment
Use meter deployment as an opportunity to collect data	<ul style="list-style-type: none"> • Collect GPS/location information at customer sites that lack the information • Collect data on site conditions in areas of the service territory where there is little visibility (e.g., Catawba)
Implement a system that can grow with Hickory’s needs	<ul style="list-style-type: none"> • Have a network and platform that is extensible to applications beyond AMI • Explore use cases and opportunities for hydrant flushing, zone metering, acoustic leak detection, and other sensing technologies • Have a network that is extendable at the edges of the service territory, where there has been substantial new development and growth
Provide proactive customer service	<ul style="list-style-type: none"> • Be able to notify customers of leaks as they occur • Be able to better explain high bills to customer and resolve inquiries more quickly and efficiently • Reduce customer calls due to estimates and other related inquiries
Create an AMI system that is sustainable for the staff’s long-term operations	<ul style="list-style-type: none"> • Ensure adequate training is provided to staff for meters/endpoints, the AMI network, and back-office systems • Ensure materials are provided for on-boarding of new staff who may need to work with the AMI solution • Reduce re-read work orders and other related work orders for field staff to prevent the need to traverse the large service territory • Create a more efficient move-in/move-out process • Reduce manual labor and paper-based work • Explore the possibility of managed services and network-as-a-service for AMI

5. SCOPE OF WORK

The selected firm will be expected to provision a detailed scope of work necessary to implement the components outlined. The delivery of this work will be subject to the Performance Acceptance and Payment Criteria outlined in Appendix E. This document outlines major milestones that are expected to be completed (including those milestones associated with the payment of professional services), quality control measures, and gates to control progression for each phase of the project.

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PROPOSAL FORMAT

Prior to submitting a response, the proposer must carefully review this RFP and any addenda subsequently issued. The following information shall be included any response to this RFP:

- Section 1 – Table of Contents
- Section 2 – Executive Summary
- Section 3 – Questionnaire
- Section 4 – Key Personnel
- Section 5 – Firm Qualifications and Project Work Plan
- Section 6 – Goals
- Section 7 – Exceptions
- Section 8 – Appendices
 - Propagation Study or Cellular Study
 - Cut Sheets
 - Warranty Terms
 - Resumes
 - Sample Contract
 - Conflict of Interest
 - Other Relevant Information
- Section 9 – Requirements
- Section 10 – Fee Proposal

Proposals should not contain extraneous information. All information presented in a proposal must be relevant in response to a requirement of this RFP and must be clearly labeled. The proposal pages shall also be numbered. **Proposals shall be limited to 100 pages or less, not counting Sections 7-10.**

Details for information to be included and questions to be addressed in each section are provided below.

1. TABLE OF CONTENTS

Identify each major section, with all pages numbered. Identify all appendices and attachments included within the proposal.

2. EXECUTIVE SUMMARY

Include the contact information, including name, firm of employment, title, address, phone number, and email, for the proposer's primary representative(s) for purposes of this RFP. Provide a brief executive summary outlining the overall proposal, a table summarizing which firm(s) are providing which Component(s), and why the proposer believes the proposal submitted best meets the needs of the City.

3. QUESTIONNAIRE

Provide a response to those questions posed for each Component in Attachment A.

4. KEY PERSONNEL

Provide a staffing organizational chart clearly identifying the project manager and key personnel associated with conducting the required work to implement the solution and its Components as detailed within the proposal. Key resources from all firms involved should be represented.

5. FIRM QUALIFICATIONS AND PROJECT WORK PLAN

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For each firm involved in the proposal, provide:

- a. The legal entity name for the firm
- b. A summary of the firm's history, experience, and qualifications, including years in business, locations, size, growth, annual sales, scope of product and service lines, and customer service
- c. A high-level scope of work or description of activities—reference to an appendix containing this information is allowed
- d. Three references for projects of substantially similar scope, including contact information for each client's lead

For the primary firm only, provide:

- a. A comprehensive work plan or schedule for completion of the required work, including the work of all subcontractors, and identifying major tasks and milestones based on the integrations, background, and conditions outlined in this RFP
- b. An estimation of any data needs or personnel resources/effort required from the utility in order for the work plan to be achieved successfully
- c. Project management methodologies to be utilized
- d. Quality assurance methods
- e. Issue resolution and escalation processes
- f. If the primary firm has worked with the proposed subcontractors previously, including the number of projects worked on with each

6. GOALS

Include a response as to how the proposer's proposed solution will meet or support each of the goals identified under the Scope of Work of this RFP.

7. EXCEPTIONS

Discuss exceptions or requested changes, if any, to the Scope of Work and terms identified in this RFP and the attachments referenced therein. Any exceptions identified must include: identification of each proposed change; and reasons for, as well as specific recommendations for, alternative language.

8. APPENDICES

Provide additional appendices to supplement the other sections enumerated. Appendices shall include:

- Propagation Study or Cellular Study
 - For RF-based AMI solutions, a propagation study covering 100% of meters in Appendix D (including infill areas), performed with preference for network infrastructure (collectors, repeaters, etc.) placed on assets identified in Appendix B, with:
 - Network infrastructure clearly marked and coordinates for such infrastructure provided in a map;
 - Specifications on any additional construction (poles, towers, or other such structures) that may be needed for infrastructure at each location;
 - An indication of which locations are located on third-party assets not given in Appendix B; and
 - Specifications on proposed backhaul transport
 - An indication of any meters not covered by the propagation study
 - For cellular-based AMI solutions, a positive confirmation of cellular coverage for 100% of meters in Appendix D (including infill areas) and an indication of any meters not covered
- Technical product sheets for all meters, endpoints, and network infrastructure proposed
- Warranty and maintenance documentation for all proposed hardware and installation work, providing the length and terms of the warranty/maintenance and service provided, limitations, and when the warranty period starts
- Resumes for Key Personnel

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- Sample contracts, boilerplate templates, or terms and conditions to be considered in developing agreements that may result from award of this RFP
- Identify any business relationship that the proposer believes may give rise to a conflict of interest if selected to provide the services in this solicitation
- Any other relevant information that Respondent believes would assist the City in evaluating the submittal

9. REQUIREMENTS

Attachment B shall be filled out and submitted in Excel format as part of the proposal.

10. FEE PROPOSAL

The fee proposal shall be submitted as a SEPARATE DOCUMENT under SEPARATE COVER. This document should use the format provided under Attachment C and be submitted in Excel format. **The fee proposal shall account for any annual escalation fees for software, equipment, and services submitted.** Professional services, such as for project management or integrations, shall be fixed in the fee amount and not charged as time-and-materials. Any pass-through costs for bonding of the full project shall be included. Third-party costs, including but not limited to network backhaul, network installation, and tower leasing shall be included. Proposers are asked to take into consideration the deployment timeframe and number of endpoints deployed each year when developing pricing for annual SaaS fees. Also provide estimated reimbursable expenses, if any.

Do not include taxes in the fee proposal. The City will assess an effective tax of 7.00% on equipment and services when assessing scores for pricing.

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GENERAL CONDITIONS

PROPOSER – TO INSURE ACCEPTANCE OF THE PROPOSAL, CAREFULLY FOLLOW THESE INSTRUCTIONS. FAILURE TO DO SO MAY RESULT IN THE REJECTION OF YOUR PROPOSAL WITHOUT FURTHER CONSIDERATION OR NOTICE TO YOU.

11. **SEALED PROPOSALS:** All proposal sheets and this form must be executed and submitted in a sealed envelope.

DO NOT INCLUDE MORE THAN ONE PROPOSAL PER ENVELOPE. The face of the envelope shall contain, in addition to the address on page one (1) of this document, the date and time of the proposal opening and the contract number. Proposals not submitted on this proposal form shall be rejected. All proposals are subject to the conditions specified herein. **Those that do not comply with these conditions are subject to rejection.** Proposals will be considered only on first quality products. Proposal files which include copies of specifications, drawings, schedules or special instructions are on file with the Purchasing Agent for the City of Hickory and may be examined during normal business hours, or may be found on the City's website (See Exhibit 'A' for further instruction).

12. **EXECUTION OF PROPOSAL AND CONTRACT:** Proposal and contract documents must contain an original signature of authorized representative in the space provided. Proposal must be typed or printed in ink. Use of erasable ink is not permitted. **ALL CORRECTIONS MADE BY PROPOSER/VENDOR TO PROPOSAL PRICE MUST BE INITIALED.** Do not use white out, correction tape or some other method of masking a correction.
13. **NO PROPOSAL:** If not submitting a proposal, respond by returning page one (1), marking it "NO PROPOSAL," and explain the reason in the space provided thereon. Failure to respond three (3) times in succession may be cause for removal of the supplier's name from the proposal mailing list, without further notice. NOTE: To qualify as having responded, proposer/vendor must submit either a proposal or a written "NO PROPOSAL," and it must be received no later than the stated proposal opening date and hour.
14. **OBJECTIONS/CHALLENGE:** Should a proposer/vendor have an objection to or challenge the specifications, the proposer/vendor is responsible for making this known in writing so as to reach the Purchasing Agent no later than seven (7) calendar days prior to the proposal opening date. The envelope shall be marked in such a way so as to alert the Purchasing Agent of the urgency of the communication. The envelope must be marked indicating that the content is a challenge to a specified Invitation to Proposal. For all challenges considered valid by the Purchasing Agent, all vendors on the original mailing list will be provided an addendum which addresses the challenge. Challenges/objections not considered valid will be so stated to the objecting party.
15. **PROPOSAL OPENING:** Proposal opening, if applicable, occurs at the time specified on the proposal form. It is the Proposer/Vendor's responsibility to assure that the proposal is delivered at the proper time and place of the proposal opening. Proposals, which for any reason are not delivered, will not be considered. Offers by telegram, facsimile, email, or telephone are not acceptable. NOTE: Proposal files may be examined during normal working hours by appointment, after the date and time of proposal opening. Proposal tabulations WILL NOT be provided by telephone or facsimile. Proposal tabulations will be provided by email at the written request of the proposer/vendor. Proposal and contract documents are the property of the City and are subject to the provisions of the North Carolina Open Records Act.
16. **WITHDRAWAL OF PROPOSAL:** Proposals may be withdrawn at any time prior to the proposal opening date and time. After proposals are opened, all proposals will be considered firm and valid until award of contract is made.
17. **AWARDS:**

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- a. As the best interest of the City may require, the right is reserved to:
 1. Award by individual item or project, group of items or projects, all or none, or a combination thereof.
 2. Award based upon a geographical district basis with one or more vendors.
 3. To reject any and all proposals or waive any minor irregularity or technicality in proposals received.
 - b. Proposers/Vendors are cautioned to make no assumptions regarding their success on the awarding of any contract unless their proposal has been evaluated as being responsive, the contract awarded by the City and appropriate documents executed. The City of Hickory reserves the right to add or delete any item from this contract when deemed to be in the best interests of the City.
18. **ACCEPTANCE OF CONTRACT:** This document constitutes only the Proposer/Vendor's offer until it is accepted on behalf of the City of Hickory and is fully executed by both parties.
 19. **WAIVER:** The City of Hickory reserves the right to waive any general provisions, special provision or minor specification deviation when considered to be in the best interest of the City.
 20. **CHANGES TO SPECIFICATIONS:** Proposals are to be submitted in accordance with the specifications provided. Any exceptions to the specifications must be indicated in the place provided on the specification page(s) or by separate letter from the Proposer/Vendor, if a place is not provided in the specifications. Changes in specification reducing the quality, versatility or applicability of the product or service shall cause the rejection of the proposal. The City shall make the final determination. Failure to notify the City in writing of any deviation from the specifications within 7 calendar days may cause the agreement to be rejected and/or terminated without further compensation at the discretion of the City.
 21. **MISTAKES:** Proposers/Vendors are expected to examine the specifications, delivery schedule, proposal prices and all instructions pertaining to supplies and services. Failure to do so will be at Proposer/Vendor's risk.
 22. **INFORMATION:** The Proposer/Vendor must provide information pertinent to items you are proposing. Complete catalogues are not necessary. If furnished, however, the Proposer/Vendor must identify the exact location in the catalogue and circle or identify clearly the item being proposal.
 23. **MANUFACTURERS' NAMES AND APPROVED EQUIVALENTS:** Any manufacturers' names, trade names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. The Proposer/Vendor may offer any brand for which he is an authorized representative, which meets or exceeds the specification for any item(s). If proposals are based on equivalent products, indicate on the proposal form the manufacturer's name and model number. Proposer/Vendor shall submit with his proposal sketches, descriptive literature and/or complete specifications. References to literature submitted with a previous proposal will not satisfy this provision. The Proposer/Vendor shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Proposals which do not comply with these requirements are subject to rejection. Proposals lacking any written indication of intent to quote an alternate brand will be received and considered to be in complete compliance with the specifications as listed on the proposal form.
 24. **SAMPLES:** Samples of items, when called for, must be furnished free of charge and at no expense to the City. Each individual sample must be labeled with Proposer/Vendor's name, manufacturer's brand name and number, contract number and item reference, or as specified in the attached special conditions. **Samples will not be returned.**

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25. **TESTING:** When testing is required to determine if a sample or an awarded product meets specifications and it is determined that the product fails to meet specifications, the cost of testing shall be borne by the Vendor, both on samples and delivered products.
26. **NONCONFORMANCE TO CONTRACT CONDITIONS:** Items may be tested for compliance with specifications by appropriate testing laboratories or by the City. The data derived from any tests for compliance with specifications are public records and open to examination thereto in accordance with North Carolina Statutes. Items delivered not conforming to specifications will be rejected and returned to the Proposer/Vendor at the Proposer/Vendor's expense. Any violation of these stipulations may result in supplier's name being removed from the City of Hickory Purchasing Proposer/Vendor mailing list, and the City may pursue any and all other remedies available either in equity or by law.
27. **CONDITION AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this proposal shall be new (current model at the time of the proposal). All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
28. **INSPECTION, ACCEPTANCE, AND TITLE:** Inspection and acceptance will be at destination unless otherwise provided. "Destination" shall mean delivered to the receiving dock, department stockroom, or other point specified. The City accepts no responsibility for goods until accepted at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the Proposer/Vendor until accepted by the ordering agency. The Proposer/Vendor shall be responsible for filing, processing and collecting all damage claims. However, to assist him in the expeditious handling of damage claims, the ordering department will:
- Record any evidence of visible damage on all copies of the delivering carrier's bill of lading.
 - Report damage (whether visible or concealed) to the carrier and Proposer/Vendor, confirming such reports, in writing, within fifteen (15) days of delivery, requesting that the carrier inspects the damaged merchandise.
 - Retain the item and its shipping container, including inner packaging material, until inspection is performed by the carrier, and disposition given by the Proposer/Vendor, or for a reasonable time after notification to the Proposer/Vendor.
 - Provide the Proposer/Vendor with a copy of the carrier's bill of lading and damage inspection report.
29. **SAFETY STANDARDS:** Unless otherwise stipulated in the proposal, all work performed pursuant to this Agreement shall comply with applicable requirements of Occupational Safety and Health Act and any standards thereunder.
30. **SERVICE AND WARRANTY:** Unless otherwise specified, the Proposer/Vendor shall define any warranty service and replacements that will be provided during and subsequent to this contract. Proposer/Vendors must explain on an attached sheet to what extent warranty and service facilities are provided. Unless otherwise indicated in this agreement, upon acceptance of this contract by the City, Proposer/Vendor expressly warrants that all articles, materials, supplies, equipment, and/or services covered in this contract will conform to the specification attached hereto and made a part hereof; and further warrants that same shall be of good material and workmanship and free from defects.
31. **REMEDIES:** Failure to make delivery or to meet specifications authorizes the City to seek replacement goods or services elsewhere and to seek legal remedies against the defaulting Proposer/Vendor. If any of the goods and/or work performed fails to meet the warranties contained herein, Proposer/Vendor upon notice thereof from the City shall promptly correct or replace the same at Proposer/Vendor's expense. If Proposer/Vendor shall fail to do so, the City may cancel this order as to all such goods and in addition, may cancel the remaining balance of this order and pursue all other remedies available. After notice to the Proposer/Vendor, all such goods will be held at Proposer/Vendor's risk. The City may, and at the Proposer/Vendor's direction shall, return such goods to Proposer/Vendor at Proposer/Vendor's risk, and

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all transportation charges, both to and from original destination, shall be paid by Proposer/Vendor. Any payment for such goods shall be refunded by Proposer/Vendor unless Proposer/Vendor promptly corrects or replaces the same at its expense.

32. **AUTHORIZED USERS:** Proposals shall cover requirements during the specified period for all municipal departments, boards, commissions, agencies and institutions.
33. **LIABILITY:** The Proposer/Vendor shall hold and save the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned harmless against the claims by third parties resulting from the Proposer/Vendor's breach of this contract or the Proposer/Vendor's negligence.
34. **INDEPENDENT CONTRACTOR:** The parties agree that Proposer/Vendor and each subcontractor is acting in the capacity of an independent contractor with respect to the City of Hickory, and shall not at any time be or represent itself as an agent or employee of the City of Hickory.
35. **PRICES AND TERMS:** Unless otherwise provided in the proposal specifications, firm fixed prices shall be F.O.B. Hickory, North Carolina at the indicated department's address and include packing, handling and shipping charges fully prepaid by the Vendor. Proposal prices shall be valid for a minimum of three-hundred sixty-five (365) days from the date of proposal opening.
36. **ACCEPTANCE OF PURCHASE ORDERS:** Proposer/Vendors are to accept only those purchase orders issued by the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned, prepared on Finance Department forms, unless instructed otherwise in the Invitation to Proposal or executed Contract Agreement.
37. **PRICE ADJUSTMENTS:** Manufacturer's price increases, or other increases in the cost of doing business MAY NOT be passed on to the City of Hickory, its departments, boards, commissions, agencies, institutions, and all employees, nor may the Proposer/Vendor withdraw or cancel the contract, or any part of the contract for these reasons. Proposers/Vendors may only cancel the contract pursuant to the cancellation clause, if one is included as a part of the Invitation to Proposal, and then only if the contractual obligation has been fulfilled by the Proposer/Vendor in accordance with the terms stated. Proposals which reflect that the price of an item is based upon the "market price" or is "subject to increase" based upon some event, or otherwise indicates that prices reflected are infirm or subject to change will be deemed non-conforming unless the proposal specifications specifically provide for price escalation.
38. **SUMMARY OF TOTAL SALES:** The Proposer/Vendor agrees to furnish the City of Hickory Purchasing Division a summary of sales, including total dollar amount made under the contract at the end of each quarter; or as stipulated in the attached special conditions.
39. **PAYMENT:**
 - a. **INVOICING:** The Proposer/Vendor shall be paid within a reasonable time, not to exceed 45 calendar days, after submission of proper certified invoices to the City at the prices stipulated on the contract. Invoices shall contain the contract number and purchase order number. Failure to follow these instructions may result in delay or processing invoices for payment. The company or corporation proposing shall be the only office authorized to receive orders, do the billing and invoicing, and receive payment. If the Proposer/Vendor wishes to ship or service from a point other than the home office, he will furnish a list of these locations. **HOWEVER, NO ORDERS WILL BE PRESENTED TO, BILLING WILL NOT BE DONE FROM, NOR WILL PAYMENT BE MADE TO THESE LOCATIONS.**
 - b. **REQUIREMENTS ONLY PURCHASES:** The proposed contract shall be for the quantities actually ordered during the life of the contract only. **UNLESS OTHERWISE SPECIFIED, ALL CONTRACTS ARE REQUIREMENTS-TYPE CONTRACTS,** meaning that quantities indicated are only estimates of those actually needed, and actual quantities may be greater or less than those indicated. Billing shall be made in accordance with instructions by

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department or division issuing the purchase order, and only for quantities actually ordered and delivered. The City does not promise to purchase the quantity shown. The City reserves the right to purchase none of the product or more than shown at the unit price stated in the proposal.

- c. **DISCOUNTS:** Proposers/Vendors may offer a cash discount for prompt payment; however, such discounts shall not be considered in determining the lowest net cost for proposal evaluation purposes. Proposers/Vendors are encouraged to reflect cash discounts in the unit prices quoted. Discount time will be computed from the date of satisfactory delivery at place of acceptance or from receipt of correct invoice at the office specified, whichever is later.
 - d. **UNIFORM COMMERCIAL CODE:** All provisions of the Uniform Commercial Code shall be adhered to.
40. **EXTENSION:** At the end of the contract period, or upon the conclusion of a maximum of one (1) extension thereof, the contract may be extended for a period not to exceed twelve (12) months at the same price and conditions as in the original contract, by mutual agreement between the City and the Proposer/Vendor. The extended contract shall, upon the signing by both parties, become a binding agreement and shall remain in force and effect until terminated by either party, provided that either party to the contract shall have the option to terminate said extended contract upon thirty days' prior written notice of termination by one party to the other.
 41. **CONFLICT OF INTEREST:** The Invitation to Proposal hereunder is subject to the provisions of City of Hickory's Ethics and Conflict of Interest Policy. All Proposers/Vendors must disclose with the proposal, the name of any officer, director or agent who is also an employee of the City of Hickory or any of its agencies or subdivisions. Further, all Proposers/Vendors must disclose the name of any City employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Proposer/Vendor's firm or any of its branches..
 42. **PATENTS AND ROYALTIES:** The Proposer/Vendor, without exception, shall indemnify and save harmless the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract including its use by the City of Hickory. If the Proposer/Vendor uses any design, device or materials covered by letters, patent copyright, it is mutually agreed and understood without exception that the proposal prices shall include all royalties or cost rising from the use of such design, device or materials in any way involved in the work.
 43. **RELEASE OF PATENTS AND COPYRIGHTS:** The Contractor will relinquish ownership and exclusive rights to the Department of Housing and Urban Development and the City of Hickory for any patents and/or copyrights for any process, discovery, or invention which arise or is developed in the course of this contract.
 44. **FACILITIES AND EQUIPMENT:** The City reserves the right to inspect the Proposer/Vendor's facilities or equipment at any time with reasonable prior notice.
 45. **BANKRUPTCY:** If the Proposer/Vendor becomes bankrupt or insolvent, or if a petition in bankruptcy is filed against the Proposer/Vendor, or if a receiver is appointed for the Proposer/Vendor, the City shall have the right to terminate this contract upon written notice to the Proposer/Vendor without prejudice to any claim for damages or any other right of the City under this contract to the time of such termination.
 46. **ASSIGNMENT:** This contract shall not be assigned by the Proposer/Vendor without written consent of the City.
 47. **ACCESS TO RECORDS:** The Proposer/vendor agrees to provide upon request audit materials to an auditor designated by the City. In addition, the Proposer/Vendor will retain all records pertaining to this contract for a period of three (3) years after final payment and all other pending matters are closed.

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48. **INSURANCE:** If insurance is required in the specifications to this Agreement, unless otherwise specifically stated, proof of the following types and amounts shall be furnished to the City showing the City as an additional insured thereunder without cost to the City of Hickory prior to the awarding of the contract. This shall be accomplished by including a Certificate of Insurance with the proposal package with the Certificate Holder being: *City of Hickory, PO Box 398, Hickory NC 28603.*
- a. **General Liability:** The Proposer/Vendor shall procure and maintain in full force and effect, for the term of the Contract, a policy or policies under a comprehensive form as required by state law. In addition, the Proposer/Vendor shall have, during the term of the contract, insurance in the minimum amount of one hundred thousand dollars (\$100,000.00) property damages, arising from a single occurrence, one million dollars (\$1,000,000.00) for personal injuries arising from a single occurrence, and one million dollars (\$1,000,000.00) for any number of claims arising out of a single occurrence or accident. This policy or policies shall hold harmless and indemnify the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned. A current certificate showing that the Proposer/Vendor has in force and effect such insurance shall be maintained on file with the City Clerk of the City.
 - b. **Automobile Liability:** The Proposer/Vendor shall procure and maintain in full force and effect, for the term of the Contract, vehicle liability coverage in the amounts specified in Subparagraph a. of this section. In addition, the Proposer/Vendor shall have, during the term of the Contract, vehicle liability coverage as outlined in the attached specifications. If higher coverage is required by any regulatory entity with oversight of the Proposer/Vendor's business, the City Code, or other authority, then proof of the higher coverage must be provided. This policy or policies shall hold harmless and indemnify the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned. A current certificate showing that the Proposer/Vendor has in force and effect such insurance shall be maintained on file with the City Clerk of the City.
 - c. **Worker's Compensation:** The Proposer/Vendor shall procure and maintain in full force and effect for the period of the Contract, full workers' compensation insurance in accordance with the laws of the State of North Carolina to protect it and the City against liability under the workers' compensation and occupational disease statutes of the State of North Carolina. A current certificate showing that the Proposer/Vendor has in force and effect the aforesaid insurance of a current certificate showing exemption from the requirement shall be maintained on file with the City Clerk of the City.
49. **TIME OF ESSENCE:** Unless otherwise stated, time shall be considered of the essence to this contract. Proposer/Vendor specifically agrees that it shall be liable for failure to deliver or delay in delivery. This includes without limitations: strikes, lockouts, inability to obtaining material, lack of shipping space, breakdowns, delays of carriers or suppliers, and pre-existing governmental regulations of the federal and state government or any subdivisions thereof; unless governmental acts and regulations affecting delivery could not be found, recognized, or discovered by due diligence on the part of the Proposer/Vendor prior to submission of the proposal and the City Council's acceptance.
50. **LIQUIDATED DAMAGES:** If the Contractor shall neglect, fail, or refuse to complete the work within the time herein specified, then the Contractor does hereby agree, as a part of the consideration for the awarding of this contract to pay to the City the sum of **\$250.00** per day, not as a penalty, but as compensation to the City for delays, damages, and additional expenses for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work. The said amount is fixed and agreed upon by and between the Contractor and the City because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain.
- It is further agreed that time is of the essence to each and every portion of this contract and to the specifications wherein a definite portion and certain length of time is fixed for the performance of any act whatsoever; and where, under the contract, any additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be the essence of this contract.

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51. **BONDS:** Performance bond, if required, are set forth in the specifications attached hereto. If bond is required, the same shall be held under the following requirements and specifications unless otherwise indicated:
- a. **Performance Bonds:** If a Performance Bond is required under the specifications of this agreement, the successful Proposer/Vendor must, prior to the award of the Contract, post the bond, certified check or cashier's check in the amount stated made payable to the City of Hickory. The Proposer's Bond posted will be returned to the successful Proposer/Vendor upon posting of the Performance Bond and completion of any additional requirements for execution of the contract by the Proposer/Vendor. The Performance Bond will be released or returned to the Proposer/Vendor, as appropriate, after satisfactory completion of the contract and the performance period as stated in the specifications attached or any amendments thereto.
52. **DISCRIMINATION:** Proposer/Vendor agrees, in connection with the performance of work under this contract, as follows:
- a. Proposer/Vendor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation or affectation, national origin, ancestry, or physical or mental impairment. The Proposer/Vendor shall take affirmative action to insure that employees are treated without regard to their race, creed, color, sex, sexual orientation or affectation, national origin, ancestry or physical or mental impairment. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, lay-off, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Proposer/Vendor agrees to post in a conspicuous place available to employees and applicants for employment, notices setting forth provisions of this section.
 - b. The Proposer/Vendor agrees to include this non-discrimination clause in any subcontract connected with the performance under this contract.
 - c. In the event of the Proposer/Vendor's non-compliance with the above non-discrimination clause, this contract may be terminated by the City. The Proposer/Vendor may be declared by the City ineligible for further contracts with the City until satisfactory proof of intent to comply is made by the Proposer/Vendor.
53. **DISTRIBUTION OF CONTRACT:** One (1) copy of the contract or award letter shall be furnished to each successful Proposer/Vendor as a result of this proposal. It shall be the Proposer/Vendor's responsibility to reproduce and distribute copies of the contract to all distribution points listed in this proposal that will accept orders and complete deliveries. No additions, deletions or changes of any kind shall be made to this contract by the Proposer/Vendor.
54. **ANTI-KICKBACK PROVISIONS:** Contractor shall comply with the applicable regulations (herein incorporated by reference) of the Secretary of Labor, United States Department of Labor, made pursuant to the so called "Anti-Kickback Act" of June 13, 1934) 48 Stat. 948; 62 Stat. 862; Title 18 U.S.C., Section 874 and Title 40 U.S.C., Section 276c), and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of affidavits required by subcontractors thereunder, except for the submission of affidavits required by subcontractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirement thereof.
55. **CONTRACT WORK HOURS AND SAFETY STANDARDS:** Overtime Compensation Required by Contract Work Hours and Safety Standards Act (76 Stat. 357-360; Title 40 U.S.C., Sections 327-332).
- a. **Overtime Requirements:** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, which he has employed on such work to work in excess of 40 hours in such work week unless

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such laborer or mechanic receives compensation at a rate not less than one and one-half time his basic rate of pay for all hours worked in excess of 40 hours in such work week.

- b. **Violation/Liability for Unpaid Wages Liquidated Damages:** In the event of any violation of the clause set forth in Paragraph (1) of this section, the contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States or other appropriate governing or regulatory body for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violations of the clause set forth in Paragraph (1), in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in Paragraph (1).
 - c. **Withholding for Liquidated Damages:** The Owner shall withhold or cause to be withheld, from any monies payment on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for liquidated damages as provided in the clause set forth in Paragraph (2) of this Section.
 - d. **Subcontracts:** The contractor shall insert in any subcontracts the clauses set forth in Paragraphs (1), (2) and (3) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts, which may be entered into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.
 - e. **Questions Concerning Certain Federal Statutes and Regulations:** All questions arising under this contract which related to the application or interpretation of (a) the aforesaid Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said acts, or (d) the labor standards provisions of any other pertinent federal statute shall be referred through the Owner and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this contract.
56. **APPLICABILITY OF FEDERAL REGULATIONS TO FEDERALLY FUNDED PROJECTS:** If it is indicated in the specifications to this Agreement that federal funding is used in the completion of this project, the following provisions shall apply in compliance with the regulations of the United States Department of Housing and Urban Development.
- a. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - b. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them for complying with the Part 135 Regulations.
 - c. The contractor agrees to send each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization of workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

- d. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
 - e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
 - f. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD-assisted contracts.
57. **REPORTING REQUIREMENTS:** The Contractor will provide such reports as required for submission to the Department of Housing and Urban Development pertaining to racial, gender, age and ethnic status of its employees for carrying out the work under this contract.
58. **ADVERTISING:** In submitting a proposal, Proposer/Vendor agrees not to use the results therefrom as a part of any commercial advertising.
59. **TERMINATION FOR CONVENIENCE OF THE CITY:**
- a. The performance of work and/or delivery of ordered materials, supplies, equipment and/or services under this contract may be terminated by the City, in whole or in part, whenever it is determined to be in the best interest of the City.
 - b. Any such termination shall be effected by the delivery to the Proposer/Vendor of a notice of termination specifying the extent to which performance of work and/or delivery of ordered materials, supplies, equipment and/or services are terminated, and the date upon which such termination becomes effective.
 - c. After receipt of a notice of termination, the Proposer/Vendor shall stop work and/or place no further orders under the contract on the date and to the extent specified in the Notice of Termination.
60. **VENUE:** This contract shall be governed by the laws of the State of North Carolina.
61. **INTEGRATED AGREEMENT:** This writing, with the attachments hereto, and any associated purchase orders constitute the entire agreement of the parties. No separate promises or agreements have been made other than those contained herein. This Agreement may not be modified except in writing signed by both parties.
62. **DELIVERY OF NOTICES:** Any notices required or permitted by this Agreement will be considered sufficient if hand delivered or sent by certified mail to the party entitled to receive the notice at the address of that party set forth above. If a notice is sent by certified mail, it shall be deemed to have been given on the second business day after it is deposited in the United States mail, whether actually received by the addressee on that date or not.
63. **SEVERABILITY:** If any provision under this Agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this Agreement or its application that can be given effect without the invalid provision or application.
64. **PARTIAL PAYMENTS:** Partial payments will be made once each month as the work progresses. Said payments will be based upon estimates prepared by the Contractor and approved by the Engineer for the

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value of the work performed and materials complete in place in accordance with the Contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with this contract.

From the total of the amount determined to be payable on a partial payment, 5% of such total will be deducted and retained by the OWNER until the final payment is made. The balance 95% of the amount payable, less all previous payments, shall be certified for payment.

The Contractor shall not receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders, except when such excess quantities have been determined by the ENGINEER to be a part of the final quantity for the item of work in question.

No partial payment shall bind the OWNER to the acceptance of any materials or work in place as to quality or quantity. CONTRACTOR shall submit partial payment request for work completed by the 25th of the month. OWNER will make payment to the Contractor on or about the 25th of the following month.

65. **PAYMENT FOR MATERIALS ON HAND (IF APPLICABLE UNDER THE CONTRACT):** Partial payments may be made to the extent of the delivered cost of materials to be incorporated in the work, provided that such materials meet the requirements of the Contract, plans, specifications, and are delivered to sites acceptable to the ENGINEER. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

- a. The material has been stored or stockpiled in a manner acceptable to the ENGINEER at or on an approved site.
- b. The Contractor has furnished the ENGINEER with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
- c. The Contractor has furnished the ENGINEER with satisfactory evidence that the material and transportation costs have been paid.
- d. The Contractor has furnished the OWNER legal title (free of liens or encumbrances of any kind) to the material so stored or stockpiled.
- e. The Contractor has furnished the OWNER evidence that the material so stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work.

The transfer of title and the OWNER's payment for such stored or stockpiled materials shall in no way relieve the Contractor of the responsibility for furnishing and placing such materials in accordance with the requirements of the Contract, plans, and specifications.

In no case will the amount of partial payments for materials on hand exceed the Contract price for such materials or the Contract price for the Contract item in which the material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant materials.

The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this contract.

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SPECIAL CONDITIONS

1. **COMPLIANCE WITH LAWS:** The proposer, at his own expense, shall obtain and maintain all licenses, permits, liability insurance, worker's compensation insurance and shall comply with any and all other standards or regulations required by federal, state and local statute, ordinance, executive order and rules during the performance of any contract between the proposer and the City. Any such requirement specifically set forth in any contract document between the proposer and the City shall be supplementary to this section and not in substitution thereof.
2. **SPECIFICATIONS:** Any obvious error or omission in specifications shall not inure to the benefit of the proposer but shall put the proposer on notice to inquire of or identify the same from the City. All construction and materials shall conform to the City of Hickory's Manual of Practice which includes the standard specifications and details.
3. **GUARANTEE:** Unless otherwise specified by the City the proposer shall unconditionally guarantee the materials and workmanship on all material, construction, and/or services to be free from defect at the time of delivery and acceptance (to be determined by usage) by the City. If any defects are present which are due to faulty material, workmanship and/or services, the proposer at his expense, shall repair or adjust the condition, or replace the material and/or services to the complete satisfaction of the City. These repairs or replacements or adjustments shall be made only at such time as will be designated by the City as least detrimental to the operation of the City. Standard Manufacturer's warranties and other warranties normally offered by the proposer shall be in effect for all deliveries and shall be in addition to specific warranties or guarantees contained in this Proposal. Statement of terms of standard warranty should be included with the proposal.
4. **LICENSE:** All proposers must have proper license governing services provided.
5. **E-VERIFY COMPLIANCE:** Employers and their subcontractors with 25 or more employees as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with North Carolina Session Law 2013-418's E-Verify requirements to contract with local governments. E-Verify is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. A completed E-Verify compliance statement is required to enter any contract with the City of Hickory.
6. **IRAN DIVESTMENT ACT:** The City only contracts with entities that are not listed on the Iran Final Divestment List ("List") created by the State Treasurer pursuant to N.C.G.S. 147-86.58, Iran Divestment Act ("Act"). Any contract with a company on the list is deemed as a void contract per State statute. The List can be found on the State Treasurer's website and is updated annually.
7. **COMPANIES BOYCOTTING ISRAEL ACT:** The City only contracts with entities that are not listed on the Companies that Boycott Israel Final Divestment List ("List") created by the State Treasurer pursuant to S.L. 2017-193 (H161). Any contract with a company on the list is deemed as a void contract per State statute. The List can be found on the State Treasurer's website and is updated annually.



Project Title:

Number:

Advanced Metering Infrastructure Project **25-005**

PROPOSAL FORM & GENERAL CONTRACT

The undersigned, as proposer, hereby declares that the only person(s) interested in the proposal as principal(s) is, are, named herein, and that no other person has any interest in this proposal, or in the contract to be entered into; that this proposal is made without connection with any other person, company, or parties making a proposal, and that it is in all respects, fair and in good faith, without collusion or fraud.

The proposer further declares that he has informed himself fully about all conditions regarding this proposal, that the **PROPOSER HAS EXAMINED SCOPE OF WORK AND ALL RELATED DOCUMENTS** for the above mentioned Project and that he has satisfied himself about performance required by this proposal.

The Proposer warrants that proposal prices, terms and conditions quoted in the proposal will be firm for a period of one-hundred-twenty (120) days from opening date or other time as specified in this request.

By submitting this proposal, Contractor agrees to coordinate his schedule with the City of Hickory forces working on this project to the fullest extent possible.

The City of Hickory reserves the right to deduct items as deemed in the best interest of the City. The Proposer agrees to commence work under his contract on a date to be specified in a written order.

BONDING

- A. BID BOND:** Required for not less than 5% of the amount of the bid, made payable to the Owner as a bid guarantee.
- B. PERFORMANCE BOND:** Required in the full amount of the stated Proposal amount.
- C. PAYMENT BOND:** Required in the full amount of the stated Proposal amount.

The City reserves the right to reject any and all proposals; and reject any proposal items that fail to meet the needs of the City.

Contractor(s) shall submit a certified Sales Tax Report along with each request for payment. This document can be downloaded from the City's website on the Purchasing Dept. webpage.

Proposers should have no contact with elected or appointed officials regarding this proposal during the proposal process. Any such contact will subject the proposer to immediate disqualification.



**City of Hickory
Request for Proposals and Contract**

Project Title:

Number:

Advanced Metering Infrastructure Project **25-005**

Acceptance and entry into this Agreement by and on behalf of the City of Hickory is made this _____ day of _____, 2024.

City of Hickory,
A North Carolina Municipal Corporation

(SEAL)

Warren Wood, City Manager

Attest:

City Clerk

This document has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer

Approved as to form on behalf of the City of Hickory only:

Attorney