

**SPECIFICATIONS, PROPOSAL, AND CONTRACT**

For the performance of work in the Borough of Chambersburg for the following:

**MISCELLANEOUS ELECTRICAL TRANSMISSION  
CONSTRUCTION ASSISTANCE**

**January 01, 2017 thru December 31, 2018**

**ISSUED**

**November 14, 2016**

Quotes for **Miscellaneous Electrical Transmission Construction Assistance January 01, 2017 thru December 2018** as covered by attached specifications must be received by Town Council of the Borough of Chambersburg before **2:30 p.m., legal time, Tuesday, December 06, 2016** at the office of the Borough Secretary, 100 South Second Street, Chambersburg, Pennsylvania 17201.

**TOWN COUNCIL OF THE BOROUGH OF CHAMBERSBURG**

For further information please contact:

Jeffrey M. Heverley, Assistant Superintendent Electric Department  
jheverley@chambersburgpa.com or 717-261-3236

**NOTICE – SEEKING PROPOSALS**

**2017 Miscellaneous Electrical Transmission Construction Assistance  
January 01, 2017 thru December 31, 2018**

The Borough of Chambersburg is accepting proposals for:

**2017 Miscellaneous Electrical Transmission Construction Assistance  
January 01, 2017 thru December 31, 2018**

A complete proposal packet may be obtained from:

Jamia L. Wright, Borough Secretary  
Borough of Chambersburg  
100 South Second Street  
Chambersburg, PA 17201  
Phone: (717) 261-3254

The Town Council intends to award one or more contracts to the overall lowest responsible Proposer, as determined by Town Council in the best interest of the Borough of Chambersburg at the December 12, 2016 regularly scheduled meeting of Town Council.

A Proposal Bond, Performance Bond, and Payment Bond are not required for this contract. However, please be advised that depending on the specific work to be performed: 1) a Performance Bond and Payment Bond in the amount of one hundred percent (100%) of the anticipated contract price may be required prior to the commencement of the work Proposed; and 2) the Contractor may be required to pay Prevailing Wage for any single job that the total project cost amounts to over \$25,000.

Proposals shall be submitted only on the enclosed Proposal Form included in the Proposal Documents. While Proposers may make comments to clarify their proposal, Proposers cannot change, modify, delete, or make additions to the wording to any of the Proposal Documents. Unauthorized conditions, exceptions, limitations, or provisions attached to a proposal may be cause for rejection of the proposal. Alterations by erasure or interlineation must be explained or noted in the proposal over the signature of the Proposer. Any questions regarding the Proposal Documents shall be submitted as Requests for Interpretation and the Proposal Documents may only be modified by Addendum issued by the Borough prior to the Proposal opening date.

The Town Council of the Borough of Chambersburg reserves the rights to reject any or all proposals; to waive any defects, errors, omissions, irregularities, or informalities in a Proposal or the Proposal procedure; and to accept any Proposal which it may deem to be for or in the best interest of the Borough of Chambersburg.

Proposals will be received at the above address until 2:30PM, on Tuesday, December 06, 2016. Any Proposal received after said date and time will be returned unopened. All proposals must be in an envelope clearly marked "Proposal for Borough of Chambersburg", bearing the name of the proposer and "**Miscellaneous Electrical Transmission Construction Assistance**". If the Proposal is sent through the mail or other delivery system, the envelope shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED" on the face of it. Please mail proposals to Attention: Jamia L. Wright, Borough Secretary

The Borough of Chambersburg is an Equal Opportunity Employer. Minority and women owned business and those defined as SERB's under State regulations are encouraged to submit proposals.

# INSTRUCTIONS TO PROPOSERS

## 1. Project Overview

The Borough of Chambersburg (the "Borough") is seeking proposals from qualified Proposers for the following project (the "Work") and as further described in the Specifications herein:

**2017 Miscellaneous Electrical Transmission Construction Assistance January 01, 2016 thru December 2018** From time to time the Borough Electric Department requires assistance with maintenance, repair and replacement of electrical lines, including but not limited to assistance originated from an emergency. Typically assistance is required when Borough personnel, or more likely equipment, are incapable of working on taller transmission poles or in times of emergencies when supplemental assistance is needed to make repairs. Those wishing to be eligible for emergency work only must complete and submit a Proposal.

The work subject to this Proposal is mostly for certain electrical line maintenance, repair, and replacement work not subject to the Pennsylvania Prevailing Wage Act.

This proposal sets forth a means for contractors to propose equipment and crew rates and qualifications for this type of ongoing support for January 1, 2017 through December 31, 2018.

The Borough intends to award one (1) contract at the December 12, 2016 regularly scheduled meeting of Town Council, however, the Borough may award one or more contracts as needed during agreement period.

## 2. Proposal Documents

The Proposal Documents include the following documents:

- Instructions to Proposers
- General Terms and Conditions
- Specifications
- Non-Discrimination Notice
- Proposer Affidavit
- Non-Collusion Affidavit
- Proposer's Questionnaire
- Proposal
- Public Works Employment Verification Form
- Agreement
- Receipt of Confirmation of Proposal and Contract Documents
- Addenda (if released by Borough)
- Receipt of Addenda (if Addenda is released by the Borough)

## 3. Contractor

The Borough reserves the right to award separate contracts for various projects as required from time to time to separate Proposers. The successful Proposer(s) will be known as the Contractor. The successful Proposer to whom a contract (the "Agreement") is awarded will be required to comply with all applicable federal and state laws, rules, regulations, orders and approvals, and all applicable Borough ordinances, rules, and regulations.

#### 4. **Qualifications of Proposer**

To demonstrate the Proposer's qualifications to perform the Work, the Proposer shall submit with the quote a completed Proposer's Questionnaire, as contained in the Proposal Documents.

Submission of financial information is not required with the proposal, however, the Borough reserves the right to request such information within five (5) calendar days after the proposal opening date.

Each proposal must contain evidence of Proposer's qualification to do business in the Commonwealth of Pennsylvania, or covenant to obtain such qualification prior to and as a condition of the award for the Contract.

No proposal will be accepted from, nor will any Agreement be awarded to any person who is in arrears with the Borough upon debt or contract, or who is in default as surety or otherwise, upon any obligation to said Borough or whose work has heretofore proved unsatisfactory or dilatory.

#### 5. **Interpretations and Addenda**

Any questions or requests for interpretation of any provision of these Proposal Documents shall be made to Jeffrey M. Heverley, Assistant Superintendent Electric Department, [jheverley@chambersburgpa.com](mailto:jheverley@chambersburgpa.com) or 717-261-3236

The Borough may issue an Addendum if deemed necessary by the Borough to address or clarify the Proposal Documents prior to the submission deadline. Only questions answered by formal written Addenda will be binding. Oral statements, interpretations, or clarifications will not be binding or legally effective.

#### 6. **Procedure For Work**

The work subject to this Proposal is for certain electrical line maintenance, repair, and replacement work not subject to the following Commonwealth law(s):

- The Pennsylvania Prevailing Wage Act, 43 P.S. § 165, *et seq.*, (the "Prevailing Wage"). Prevailing Wage applies to construction, reconstruction, demolition, alteration, and/or repair work other than **maintenance work**, done under contract and paid for in whole or in part out of the funds of a public body where the estimated cost of the **total project** is in excess of twenty-five thousand dollars (\$25,000).

For non-maintenance projects, the Borough will ask the Contractor to provide an estimate for their portion of the total project using the quotes submitted with this Proposal to determine if Prevailing Wage applies to the Work. If the total project cost with the Contractor's estimate is greater than twenty-five thousand dollars (\$25,000), the Borough will obtain the prevailing wage rates from the Commonwealth. The Borough will then request new quotes from Proposers for said work under a separate agreement.

#### 7. **Security**

7.1 A Proposal Bond, Performance Bond, and Payment Bond are not required for this Proposal. However, please be advised that depending on the specific work to be performed, a Performance Bond and / or Payment Bond in the amount of one hundred percent (100%) of the anticipated contract price may be required prior to the commencement of the work from the Contractor. The Borough shall advise the Contractor at the time the work to be performed if a Performance and / or Payment Bond is required. If bonds are so required, the following provisions shall apply:

7.2 All bonds shall be in the form prescribed by the Proposal Documents except as provided otherwise by Laws or Regulations or as accepted by the Borough, and shall be executed by such sureties as are

named in the list of “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this Section 7: Security, Contractor shall promptly notify the Borough and, within twenty (20) days after the event giving rise to such notification, provide another bond and surety.

**7.3 Performance and Payment Bonds.** The Borough shall notify the Contractor if a Performance and / or Payment Bond is required for a particular project.

After being notified of the particular work to be performed and informed that a Performance and / or Payment Bond is required for the said work, the Contractor shall provide an estimate of the total cost of said work and furnish performance and payment bonds, each in an amount of one hundred percent (100%) of this estimated amount, as security for the faithful performance and payment of all of Contractor’s obligations under the Contract Documents.

## **8. Proposal Form**

The price of each item on the Proposal form must be stated in numerals and, if required, in words. Subject to the Borough’s right to correct a Proposer’s mathematical totals, a discrepancy between the word and numeral for a particular item will be resolved in favor of the word.

The Proposal Form of an individual must be signed by the individual person. The Proposal of a partnership must state the names of each partner and it must be signed by at least one partner. The Proposal of a corporation must show the State of incorporation and must be signed by the President or Vice President. All names must be typed or printed below each signature. The following should be considered by the Proposer with Proposal submission, if applicable:

**Tax:** Pennsylvania sales tax is **not** to be included in the proposal. Tax exemption certificate will be furnished to the Contractor. The Borough is sales tax exempt. However, the Contractor is not exempt from the obligation to follow appropriate tax laws in the procurement of materials and services used in the performance of this Agreement. The Proposer may obtain legal advice to determine how and to what extent the Borough’s tax exemption may be utilized by the Contractor. The Borough will provide, at the Contractor’s request, documentation required to obtain applicable tax exemptions.

## **9. Substitutions and “Or Equal” Items**

Proposals shall be based on products, materials, equipment and methods, covered in the Specifications and shown on any drawings, if included. When a specification includes the name or names of manufacturer(s), proposals shall be based on a product which: (1) meets all Specification requirements, including but not limited to specific catalogues, model numbers, trade names; and (2) is produced by one of the manufacturers specifically named in the Specifications for that particular Product.

## **10. Submission of Proposals**

Proposals shall be submitted no later than the time and place indicated in the Notice. All proposals must be in an envelope clearly marked “Proposal for Borough of Chambersburg”, bearing the name of the Proposer and “**2017 Miscellaneous Electrical Transmission Construction Assistance**”. If the Proposal is sent through the mail or other delivery system, the envelope shall be enclosed in a separate envelope with the notation “PROPOSAL ENCLOSED” on the face of it. Please mail proposals to Attention: Jamia L. Wright, Borough Secretary. The Proposer is solely responsible for delivering the

proposal to the Borough at the location of, and by the time of, the proposal opening designated in the Notice.

The following completed documents are to be submitted with the Proposal and will become a condition of the Proposal:

- Proposal
- Proposer Affidavit
- Non-Collusion Affidavit
- Proposer's Questionnaire
- Public Works Employment Verification Form
- Receipt of Addenda (if applicable)

Proposers may provide comments to clarify or describe their technical offer, but Proposers cannot change, modify, delete, or make additions to the wording to any of the Proposal Documents.

It is the responsibility of each Proposer before submitting a Proposal to:

- A. examine and carefully study the Proposal Documents, including any Addenda or Memorandum and the related data identified in the Proposal Documents;
- B. become familiar with and satisfy Proposer as to all federal, state, and local Laws and Regulations that may affect cost, progress, or the performance of the Work;
- C. become aware of the general nature of Work to be performed by the Borough and others at the site(s) that relate to the Work as indicated in the Proposal Documents
- D. promptly give the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Proposer discovers in the Proposal Documents and confirm that the written resolution thereof by the Borough is acceptable to Proposer; and
- E. determine that the Proposal Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing the Work.

#### **11. Modification and Withdrawal of Proposals**

Proposals may be modified or withdrawn by an appropriate document duly executed (in the manner that a Proposal must be executed) and delivered to the place where Proposals are to be submitted at any time prior to the opening of Proposals.

After the Proposal opening, Proposer may withdraw its Proposal only by complying with applicable Federal, State, or local laws and regulations.

#### **12. Proposals to Remain Open thru 2018**

By submitting a Proposal for the various electrical work, the Proposer agrees and consents that their proposal shall remain open through December 31, 2018.

#### **13. Award of Contract**

The Borough reserves the right, without limitation, to reject any or all Proposals, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, or conditional Proposals and to reject the Proposal of any Proposer, if the Borough believes that it would not be in the best interest of the project to make an award to that Proposer, whether because the Proposal is not responsive or the Proposer is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Borough. The Borough also reserves the right to waive all irregularities or informalities not involving price, time, or changes in the Work and to negotiate contract terms with the successful Proposer.

The Borough will correct discrepancies in Proposer's mathematical totals.

In evaluating Proposals, the Borough may conduct such investigations as the Borough deems necessary to assist in the evaluation of any Proposal and to establish the responsibility, qualifications, and financial ability of Proposers, proposed sub-contractors, suppliers, and other persons and organizations to perform and furnish the Goods in accordance with the Proposal Documents to the Borough's satisfaction within the prescribed time. The Borough reserves the right to interview Proposers.

If the Contract (the "Agreement") is to be awarded, the Borough will give the apparent successful Proposer a Notice of Intent to Award.

**14. Signing of Agreement**

When the Borough gives a Notice of Intent to Award to the apparent successful Proposer, it will be accompanied by three (3) unsigned counterparts of the Agreement (each with a copy of the Proposal submission) plus the Payment Bond and Performance Bond, if required. Within fifteen (15) days thereafter, apparent successful Proposer shall sign and deliver to the Borough the three (3) signed counterparts of the Agreement accompanied by the executed Payment and Performance Bonds, if required, (with a power-of-attorney certificate attached to each). The Agreement may be cancelled, at the discretion of the Borough, if the apparent successful Proposer does not execute, and deliver to the Borough, the Agreement and insurance certificate(s), within fifteen (15) days from the date of the Notice of Intent to Award.

## GENERAL TERMS AND CONDITIONS

### 1. Labor and Equipment

The Contractor agrees to furnish all labor, tools, and equipment and to pay all expenses necessary for or in connection with, the Work to be done hereunder in consideration of the payments hereinafter provided to be paid to the Contractor by the Borough.

### 2. Inspection of Work or Goods

The Borough reserves the right to inspect the Contractors Work, Goods, or other deliverables, and direct changes to the Contractor's methods and procedures within the scope of this Contract. Periodic inspections will be performed by the Borough or its agents.

### 3. Termination

Should the Contractor fail to perform the Work to the satisfaction of the Borough or to comply with any of the provisions of the Agreement, the Borough may terminate this agreement upon twenty-four (24) hours written notice to the Contractor. This contract may be cancelled by either party upon thirty (30) days written notice. In addition, the Borough has the right to suspend performance of the Agreement, without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension.

### 4. Warranty

The Contractor shall guarantee workmanship against defects or failures for a period of one (1) year after the completion of the Work, as evidenced by final payment for projects that include construction or delivery. Neither final payment nor acceptance of the Work shall relieve the Contractor of responsibility for failure to comply with these specifications. The Contractor shall remedy any defects in the Work that shall appear within a period of one (1) year from completion and acceptance, and shall bear the expense of repairing everything that has been destroyed or damaged by such defects.

### 5. Notice of Defect

The Borough shall give the Contractor prompt notice of defects that become apparent. In the case of subpar Goods, Contractor must immediately place deliverables. In case of an emergency where delay would cause serious loss or damage, the Borough may undertake to have any defects repaired without previous notice to the Contractor, and the expense of such repairs shall be borne by the Contractor.

### 6. Assignment

The Contractor shall not sublet this Agreement or any portion of it without first obtaining the written consent of the Borough. The Contractor shall not obligate the Borough to make any payments to another party for, or in behalf of the Borough, without the approval of the Borough.

### 7. Invoices and Payment

All payments will be processed through the Borough's standard accounts payable system. The Contractor Invoices should be marked NET 30 DAYS.

If the Borough objects to any portion of an Invoice, the Borough shall so notify the Contractor in writing within twenty (20) days of receipt of the invoice. The Borough shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by the Borough on all disputed invoiced amounts resolved in the Contractor's favor and unpaid for more than forty-five (45) days after date of the notice of the dispute.

### 8. Delivery

All items must be delivered FOB Point of Destination.

**9. Insurance**

Unless otherwise specified, the Contractor shall, at its sole cost and expense, maintain the following the minimum types of insurance as specified herein. The Borough of Chambersburg, its officers and employees, are to be named as additional insured on all policies required herein, except Workmen’s Compensation. The insurance shall provide for at least thirty (30) days prior written notice to be given to the Borough in the event the insurance is materially changed, canceled, or non-renewed. Before starting work the Contractor shall furnish to the Borough for its examination and approval such policies of insurance with all endorsements, or a conformed specimen thereof certified by the agent of the insurance company, together with certificates of the insurance company of such insurance.

A. WORKMEN’S COMPENSATION – Statutory limit as required by the Commonwealth of Pennsylvania.

B. BUSINESS AUTOMOBILE – Covering Any Automobile (Symbol I)

|  |                   |
|--|-------------------|
| Bodily Injury Liability and<br>Property Damage Liability | \$1,000,000 (CSL) |
|--|-------------------|

C. COMMERCIAL GENERAL LIABILITY (CGL)

|   |             |
|---|-------------|
| General Aggregate Limit                       | \$1,000,000 |
| Products-Completed Operations Aggregate Limit | \$1,000,000 |
| Personal & Advertising Injury Limit           | \$1,000,000 |
| Each Occurrence Limit                         | \$1,000,000 |
| Fire Damage Limit                             | \$ 50,000   |
| Medical Expense Limit                         | \$ 5,000    |

**10. Indemnification**

The Contractor and its sub-contractors, if any, shall release, hold harmless, and indemnify the Borough, its officers, elected officials, agents, representatives, and employees acting within the scope of their official duties from and against damages, costs, and expenses (including reasonable attorneys’ fees) to the extent caused by the negligent acts, errors, or omissions of the Contractor, its employees, sub-contractors, agents, servants, and/or anyone acting under the Contractor’s control and/or the Contractor’s direction, in the performance of the requirements of this Agreement. The Contractor shall defend any lawsuit commenced against the Borough and shall pay any judgments and costs connected with such proceeding which are based upon the negligent acts or omissions of the Contractor or its sub-contractors. If the Contractor is successful in defending such a lawsuit, then the Borough will reimburse the Contractor for its costs and expenses associated with such defense only to the extent that such liabilities arise from an action which can be properly brought against the Borough as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 *et. seq.* and in accordance with such limits of liability set forth in the Act, along with payment for any withheld invoices.

**11. Taxes**

All taxes of whatsoever kind, nature and description payable in respect to the performance of this Agreement are to be paid by the Contractor unless otherwise provided by law.

**12. Disputes**

Before any litigation is brought pursuant to this Agreement, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the parties will continue to put forth names for a mutually agreeable time, after which litigation may be commenced in Franklin County

Court of Common Pleas if a mediator is not agreed upon. In the event mediation does not result in the successful resolution of the dispute, either party may institute any and all actions necessary to protect their rights at law and/or equity in accordance with this Agreement.

### **13. Compliance with Laws**

All Work performed under this Agreement shall conform with all applicable Federal, State, and local laws.

- A. The Commonwealth of Pennsylvania Prevailing Wage Act, 43 P.S. §165-1 *et seq.*, for certain public works projects where the estimated cost of the total project is in excess of Twenty Five Thousand Dollars (\$25,000.00).
- B. The Public Works Contractors' Bond Law of 1967, 8 P.S. § 191 *et seq.*, relating to required bonds for certain contracts.
- C. The Pennsylvania Steel Products Procurement Act of 1978, P.L. 6, as amended. The Act and amendments require that the Contractor use or furnish only steel products (as defined in the Act and amendments) which have been produced in the United States.
- D. Pennsylvania Act 247 of 1972, as amended, relating to the prevention of environmental pollution and the preservation of public natural resources.
- E. The Pennsylvania Human Relations Act No. 222 of 1955, as amended.
- F. The Pennsylvania Underground Utility Line Protection Act, Act 287 of 1974, as amended by Act 121 of 2008, which requires contractors to notify public utilities prior to starting excavation or demolition work.
- G. The Pennsylvania Public Works Contract Regulation Law, as amended by Act 142 of 1994 as it relates to timely payment by Contractor and Subcontractor to its Subcontractors.
- H. The Pennsylvania Antibi-Rigging Act, 73 P.S. 1611 *et seq.*, regarding contracts for the purchase of equipment, goods, services or materials or for construction or repair let or to be let by a government agency.
- I. The Pennsylvania Public Works Employment Verification Act (Act 127 of 2012), requiring contractors to verify that newly hired employees are authorized to work in the United States, for certain public works projects where the estimated cost of the total project is in excess of Twenty Five Thousand Dollars (\$25,000.00).

# SPECIFICATIONS

## **Project: Miscellaneous Electrical Transmission Construction Assistance January 01, 2017 thru December 31, 2018**

From time to time the Borough of Chambersburg Electric Department requires assistance with electrical line construction functions. Assistance is typically required when Borough personnel or more likely equipment are incapable of working on taller transmission poles, though requests may be made for work of a lesser extent. This proposal sets forth a means for contractors to offer proposals of rates and qualifications of their equipment and crews to offer the Borough this type of ongoing support. Requests may also be made in times of emergencies when supplemental assistance is needed to make repairs of any degree.

The Borough will typically perform work on all poles of Seventy (70) feet or less in height, therefore this contract will likely apply mostly to assist with work on poles greater than Seventy (70) feet to approximately One Hundred (100) feet in length, which may also include poles of a higher class/weight, ex. Class H2. The contractor offering services as part of this proposal MUST be capable of working with those size poles or shall specify what the extent of their capabilities are for consideration.

The Borough operates a 69 kV Transmission System. Due to the functionality of the Transmission System, switching can be done as to allow all sections of line to be worked on to be de-energized and properly grounded. The transmission poles will most likely have 4,160 or 12,470 Volt grounded Wye distribution circuits attached as well. These circuits will generally remain energized while working on poles. Work requested of the contractor will typically only apply to the transmission system. Typically Borough personnel will complete distribution level work.

Normally work will be requested through this contract on a rate basis based off the rates provided for personnel and equipment. Materials will usually be provided by the Borough for use by the contractor to complete the scope of work defined. If any materials are provided by/used by the contractor to complete the scope they must have prior approval by a proper Borough representative and be listed with an itemized price on the invoice.

Contractor MUST have a good history of safe work, practice all guidelines in any appropriate codes including the National Electric Safety Code (NESC) and applicable OSHA safety guidelines, and generally follow good utility practice in all work functions.

The Borough will not award contract solely based off rates provided. Company reputation and ability to complete projects in a time effective manner will also be taken into consideration. The Borough will award contract to the contractor that seems to offer the best overall value of service to the Borough.

The work subject to this Proposal is mostly for certain electrical line maintenance, repair, and replacement work not subject to the Pennsylvania Prevailing Wage Act, 43 P.S. § 165, *et seq.* ("Prevailing Wage"). Prevailing Wage applies to construction, reconstruction, demolition, alteration, and/or repair work other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body where the estimated cost of the total project is in excess of twenty-five thousand dollars (\$25,000).

For non-maintenance projects, the Borough will ask the Contractor to provide an estimate for their portion of the total project using the quotes submitted with this Proposal to determine if Prevailing Wage applies to the Work. If the total project cost with the Contractor's estimate is greater than twenty-five thousand dollars (\$25,000), the Borough will obtain the prevailing wage rates from the Commonwealth. The Borough will then request new quotes from Proposers for said work under a separate agreement. The contractor shall comply with all requirements of the United States Department of Labor relative to prevailing wages. The contracted rates may be adjusted accordingly, if necessary, to accommodate these requirements. Such adjustments shall be justified and submitted to the Borough prior to starting work.

If contractor is capable of providing engineering services as well as construction, they are encouraged to submit a proposal of rates and capabilities for such services.

## NON-DISCRIMINATION

During the term of the contract, the contractor agrees as follows:

- A. Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, sex or disability. Contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- B. Contractor shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, sex, or disability.
- C. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by contractor.
- D. It shall be no defense to a finding of a noncompliance with Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause that contract has delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that contractor will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause, contractor shall then employ and fill vacancies through other non-discrimination employment procedures.
- F. Contractor shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of contractor's non-compliance with the non-discrimination clause of this contract or with any such laws, this contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and contractor may be declared temporarily ineligible for Commonwealth of Pennsylvania contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.

- G. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the contracting agency and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to ss 49.35 (relating to information concerning compliance by contractors). If contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.
- H. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- I. Contractor shall include the provisions of this non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.
- J. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49.
- K. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

**PROPOSER AFFIDAVIT**

The Specifications and all papers required by it and submitted herewith, the Contract, and all papers made a part hereof by its terms, are hereby made a part of this Proposal.

The undersigned Proposer hereby represents as follows:

- A. That he has carefully examined the Proposal, the Contract, and the Specifications.
  - B. That no officer, agent, or employee of the Borough of Chambersburg is personally interested directly or indirectly in this Proposal and the accompanying Contract or the compensation to be paid herein under.
  - C. That the Proposal is made without connection with any person, firm or corporation making a Proposal for the same work, and is in all respects fair and without collusion or fraud; and
  - D. That should this Proposal be accepted by the Borough of Chambersburg, he will execute the Contract and furnish any other documents within the time and in the forms and amount required by the Contract and Specifications, and that upon his failure, neglect or refusal to do so, he shall forfeit to the Borough of Chambersburg the Proposal Security, not as a penalty, but as a liquidated damage.
- 

\_\_\_\_\_  
Name of Proposer, Corporation, Firm or Individual

By: \_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Please Print Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Business Address of Proposer

\_\_\_\_\_  
Phone #

## **INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT**

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this Proposal. According to the Pennsylvania Antirigging Act, 73 P.S. 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with proposals.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the Proposer who makes the final decision on prices and the amount quoted in the proposal.
3. Bid-rigging, and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of proposals, are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Proposer with responsibilities for the preparation, approval or submission of the proposal.
4. In the case of a proposal submitted by a joint venture, each party to the venture must be identified in the proposal documents and an Affidavit must be submitted separately on behalf of each party.
5. The term "complementary proposal", as used in the Affidavit, has the meaning commonly associated with that term in the Proposal process and includes the knowing submission of proposals higher than the proposal of another firm, any intentionally high or non-competitive proposal and any other form of proposal submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit, in compliance with these instructions, will result in disqualification of the Proposal.

**NON-COLLUSION AFFIDAVIT**

Contract/proposal No. \_\_\_\_\_

**State of :**

**County of :**

I state that I am, \_\_\_\_\_ of \_\_\_\_\_  
(Title) (Name of Firm)

and that I am authorized to make this Affidavit on behalf of my firm and its owners, directors and officers. I am the person responsible in my firm for the price(s) and the amount of this proposal.

I state that:

(1) The price(s) and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other contractor, Proposer or potential Proposer.

(2) Neither the price(s) nor the amount of this proposal, and neither the approximate price(s) nor approximate amount of this proposal, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed before proposal opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from Proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or non-competitive proposal or other form of complementary proposal.

(4) The proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other non-competitive proposal.

(5) (Name of Firm) \_\_\_\_\_ its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not, in the last four (4) years, been convicted or found liable or any act prohibited by State or Federal law in any jurisdiction involving conspiracy or collusion with respect to Proposal on any public contract, except as follows:

I state that \_\_\_\_\_ (Name of Firm) understand and acknowledges that the above representations are material and important and will be relied on by \_\_\_\_\_ (Name of Public Entity) in awarding the contract(s) for which this proposal is submitted.

**NON-COLLUSION AFFIDAVIT CONTINUED**

I understand, and my firm understands, that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from \_\_\_\_\_ (Name of Public Entity) of the true facts relating to the submission of proposal for this contract.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Company Position)

SWORN AND SUBSCRIBED  
BEFORE ME THIS

\_\_\_\_\_  
(Date)

\_\_\_\_\_

Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Date)



3. Are you or your company involved in any litigation concerning any projects you or your company has worked on in the past five (5) years? If so provide citations to the relevant filings.
4. The undersigned hereby authorizes the Borough and its representatives to contact former clients and / or references to discuss the Proposer's performance and / or qualifications. Proposer hereby expressly releases the Borough of Chambersburg, its agents, attorneys, engineers, representatives, board members, heirs, and assigns from any and all rights, losses, damages, claims, actions or causes of action, whether in contract or tort, law or equity, whether known or unknown, suspected or unsuspected, which the Proposer ever had, now has, or will have against the Borough of Chambersburg, former clients and / or references related to the discussion in any manner of the Proposer's performance and / or qualifications.

Dated at this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

---

Name of Proposer, Corporation, Firm or Individual

By:

---

Authorized Representative

---

(Please Print Signature)

---

Title

If the proposal is a joint venture or partnership, add additional forms of execution for each number of the joint venture in the appropriate form or forms as above.

**END OF PROPOSER'S QUESTIONNAIRE**

# PROPOSAL

DATE \_\_\_\_\_

**Project: Miscellaneous Electrical Transmission Construction Assistance  
January 1, 2017 thru December 31, 2018**

## ARTICLE 1 - PROPOSAL RECIPIENT

1.01 This Proposal is submitted to:

Borough of Chambersburg  
100 S. Second Street  
Chambersburg, PA 17201  
Attn: Jamia Wright

1.02 The undersigned Proposer proposes and agrees, if this Proposal is accepted, to enter into an Agreement with the Borough in the form included in the Proposal Documents to perform the Work as specified or indicated in the Proposal Documents for the prices and within the times indicated in this Proposal and in accordance with the other terms and conditions of the Proposal Documents.

## ARTICLE 2 - PROPOSER'S ACKNOWLEDGMENTS

2.01 Proposer accepts all of the terms and conditions of the Notice / Advertisement, Instructions to Proposers, and General Terms and Conditions, including without limitation those dealing with the disposition of Proposal security, if applicable.

The Proposer agrees and consents that the Proposal will remain subject to acceptance up to and including **December 31, 2018**.

## ARTICLE 3 - PROPOSER'S REPRESENTATIONS

3.01 In submitting this Proposal, Proposer represents, as set forth in the Proposal Documents, that the Proposer has:

- A. examined and carefully studied the Proposal Documents, including any Addenda, and the related data identified in the Proposal Documents;
- B. become familiar with and satisfied as to all Federal, State, and local laws and regulations that may affect cost, progress, or the performance of the Work;
- C. promptly gave the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Proposer discovered in the Proposal Documents and confirmed that the written resolution thereof by the Borough is acceptable to Proposer; and
- D. determined that the Proposal Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work.

**ARTICLE 4 - BASIS OF PROPOSAL**

4.01 Proposer will perform the Work as noted below in accordance with the Proposal and Contract Documents (indicate quantity where none is currently given) at the following FIRM prices:

| <u>LABOR CLASSIFICATION</u>       | <u>HOURLY RATE</u> |             |
|-----------------------------------|--------------------|-------------|
|                                   | <u>2017</u>        | <u>2018</u> |
| General Foreman                   | \$ _____           | \$ _____    |
| Foreman                           | \$ _____           | \$ _____    |
| Small Job Foreman                 | \$ _____           | \$ _____    |
| Journeyman Lineman                | \$ _____           | \$ _____    |
| Equipment Operator                | \$ _____           | \$ _____    |
| “B” Equipment Operator            | \$ _____           | \$ _____    |
| 7 <sup>th</sup> Period Apprentice | \$ _____           | \$ _____    |
| 6 <sup>th</sup> Period Apprentice | \$ _____           | \$ _____    |
| 5 <sup>th</sup> Period Apprentice | \$ _____           | \$ _____    |
| 4 <sup>th</sup> Period Apprentice | \$ _____           | \$ _____    |
| 3 <sup>rd</sup> Period Apprentice | \$ _____           | \$ _____    |
| 2 <sup>nd</sup> Period Apprentice | \$ _____           | \$ _____    |
| 1 <sup>st</sup> Period Apprentice | \$ _____           | \$ _____    |
| Laborer                           | \$ _____           | \$ _____    |
| Other:                            | \$ _____           | \$ _____    |

| <u>EQUIPMENT TYPE</u>              | <u>HOURLY RATE</u> |             |
|------------------------------------|--------------------|-------------|
|                                    | <u>2017</u>        | <u>2018</u> |
| Pick-up Truck                      | \$ _____           | \$ _____    |
| 1-1/2 Ton Utility Truck            | \$ _____           | \$ _____    |
| Dump Truck – Single axle           | \$ _____           | \$ _____    |
| Bucket Truck                       | \$ _____           | \$ _____    |
| Bucket Truck – 65’                 | \$ _____           | \$ _____    |
| Digger Derrick - >65’              | \$ _____           | \$ _____    |
| Bucket Truck ->65'                 | \$ _____           | \$ _____    |
| Pole/Cable Combination Trailer     | \$ _____           | \$ _____    |
| Hydraulic Cable Trailer - Truco    | \$ _____           | \$ _____    |
| Trencher/Plow rubber tired 40-60HP | \$ _____           | \$ _____    |

|   |          |          |
|---|----------|----------|
| Trencher/Plow rubber tired 60+Hp                | \$ _____ | \$ _____ |
| Backhoe/loader- rubber tired JD310 or equal     | \$ _____ | \$ _____ |
| BH/Ldr-rubber tired JD310 or eq. w/ hyd. hammer | \$ _____ | \$ _____ |
| Boring Machine – 4” – Push Machine              | \$ _____ | \$ _____ |
| Air compressor with tools                       | \$ _____ | \$ _____ |
| Wacker – Tamper                                 | \$ _____ | \$ _____ |
| Roller – Small                                  | \$ _____ | \$ _____ |
| Water Pump – Generator – Manhole Blower         | \$ _____ | \$ _____ |
| Hogg Davis Power Trailer or equal               | \$ _____ | \$ _____ |
| Concrete Saw                                    | \$ _____ | \$ _____ |
| Core Drill                                      | \$ _____ | \$ _____ |
| Arrow Board                                     | \$ _____ | \$ _____ |
| Hydraulic Capstan                               | \$ _____ | \$ _____ |
| Truck-mounted Rock Drill w/ Operator            | \$ _____ | \$ _____ |
| Other:  | \$ _____ | \$ _____ |

**ARTICLE 5 — TIME OF COMPLETION**

5.01 Proposer agrees that the performance of the Work will conform to the schedule set forth in the Agreement.

**ARTICLE 6 - ATTACHMENTS TO THIS PROPOSAL**

6.01 The following documents are attached to and made a condition of this Proposal:

- A. Required Proposer Questionnaire; and
- B. Required Non-Collusion Affidavit, Proposer Affidavit, and Non-Discrimination Affidavit;
- C. Required Pennsylvania Public Works Employment Verification Act Form.

**Signature Appears on Following Page**

The undersigned does further declare that the statements and representations made in this Proposal are true in every respect and that said Proposal is in all respects fair and made without collusion or fraud, and that no member of the Borough Council or any agent or employee of the Borough directly, or indirectly is interested in this Proposal, or in any portion of the profits expected to accrue therefrom.

Company Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Name of person familiar with proposal

\_\_\_\_\_

Phone number \_\_\_\_\_

Email \_\_\_\_\_



COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Date \_\_\_\_\_

Business or Organization Name (Employer) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Contractor  Subcontractor (check one)

Contracting Public Body \_\_\_\_\_

Contract/Project No \_\_\_\_\_

Project Description \_\_\_\_\_

Project Location \_\_\_\_\_

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, \_\_\_\_\_, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

\_\_\_\_\_  
Authorized Representative Signature

## AGREEMENT

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (the "Effective Date") by and between the Borough of Chambersburg, a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, (hereinafter the "Borough") and \_\_\_\_\_ (hereinafter the "Contractor").

WHEREAS the Borough has authorized the performance of certain Work in accordance with the Specifications hereto attached and made a part hereof; and

WHEREAS the Contractor has submitted to the Borough a Proposal for

**Miscellaneous Electrical Transmission Construction Assistance**  
**January 1, 2017 thru December 31, 2018**

in conformity with the Proposal Documents, including Specifications, hereto attached and made a part hereof; and

WHEREAS the Borough, after due consideration and appropriate action, has decided to award a contract to the Contractor in accordance with said Proposal.

**NOW THEREFORE, THIS AGREEMENT WITNESSETH** that the Borough and the Contractor in consideration of the requirements, terms, and conditions of the said Specifications and the offers, promises, and representations made by the Contractor in said Proposal, by each of the parties hereto, on their parts, to be observed and fulfilled, do hereby agree as follows:

**Article 1 - Basis of Agreement**

The parties hereto recognize that any and all Proposal Documents, as defined in the Instructions to Proposers and including the said Specifications and any Addenda (if released), plus the Proposer's Proposal and required attachments, and any and all Written Amendment(s), Change Orders(s) and Notice to Proceed if issued after the Effective Date of this Agreement (hereinafter, the "Contract Documents"), are the basis of this Agreement, accept the same and declare that there are no understandings, representations, or promises, written or verbal, having any bearing on this Agreement which are not expressed in the Contract Documents or written in this Agreement.

**Article 2 – Work**

The Contractor agrees to perform the Work as included in the Proposal and to faithfully perform and complete all Work connected therewith in full conformity with said Contract Documents, including the Specifications and Proposer's Proposal, and to demonstrate and make good any guarantees and warranties therein required and contained, for all of which things faithfully and fully performed and completed, the Borough agrees to pay the Contractor and the Contractor agrees to accept from the Borough in full settlement therefor, the total sum or contract price of lawful money of the United States of America, at the time, in the manner, and under the conditions named in said Specifications and Proposal, which Proposer's Proposal is attached hereto and incorporated herein by reference as Exhibit A.

**Article 3 – Point of Destination**

For all deliveries, the place where the Goods or other materials are to be delivered shall be known as the Point of Destination and shall be designated as follows unless otherwise changed by the Borough:

Borough Hall  
100 S. 2<sup>nd</sup> Street  
Chambersburg, PA 17201

**Article 4 - Contract Times & Term**

All times set forth for the completion of the Work is the essence of the Agreement. The contract shall begin on the Effective Date and terminate on December 31, 2018. The Contractor and Borough agree to mutually determine a project schedule for individual projects. To the extent provided in the General Terms and Conditions, relating to disputes, applicable provisions herein shall continue in effect after expiration or termination, including early termination prior to the standard expiration date of the term, to the extent necessary to enforce or complete the duties, obligations, or responsibilities arising prior to termination, repayment of any money due and owing to either party pursuant hereto, and indemnifications specified hereto.

**Article 6 – Contract Price**

The Borough shall pay the Contractor for performance of the Work in accordance with the General Terms and Conditions, as provided in the Contract Documents as follows:

1 – The prices as stated in Contractor’s Proposal for all Items as included herein in Exhibit A as referenced in Article 2 herein.

**Article 7 – Payment Procedures**

The Contractor shall submit invoices in accordance with and is subject to the payment provisions as indicated in the General Terms and Conditions, as provided in Contract Documents.

**Article 8 - Independent Contractors**

Any Work to be performed by the Contractor or its sub-contractors, if any, under this Agreement are provided as independent contractors. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. All persons engaged in any of the Work to be performed pursuant to this Agreement shall at all times and places be subject to the Contractor’s sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it, its employees, and sub- contractors perform the Work. The Contractor does not have the power or authority to bind the Borough in any promise, agreement, or representation unless expressly provided written agreement to do so. The Contractor also hereby represents and warrants that it and any sub- contractors has and will continue to maintain all licenses and approvals required to conduct its business and to provide the Work as required pursuant to this Agreement.

**Article 8 – Contractor’s Representations**

In order to induce the Borough into this Agreement, the Contractor makes the following representations:

- A. The Contractor has examined and carefully studied the Contract Documents and any and all other related data as identified in the Proposal Documents, including any technical data;
- B. Contractor is familiar with and satisfied as to all federal, state, and local Laws and regulations that may affect cost, progress, or the performance of the Work;
- C. Contractor is aware of the general nature of Work to be performed by the Borough and others at the site that relates to the Work as indicated in the Contract Documents;
- D. Contractor promptly gave the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor discovered in the Contract Documents and the Proposal Documents and confirmed that the written resolution thereof by the Borough is acceptable to Contractor; and
- E. Contractor determined that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work.

### **Article 9 - Correction of Defective Work**

Prompt notice of all defective Work of which the Borough has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 9. Contractor's obligations under this Article 9 are in addition to any other obligation or warranty. In exercising the rights and remedies under this Article 9, the Borough shall proceed expeditiously.

If the Work is defective, in the sole opinion of the Borough or if Contractor fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, the Borough may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Borough to stop the Work shall not give rise to any duty on the part of the Borough to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

*Correction Period.* If within one (1) year after the date of completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to the Borough and in accordance with the Borough' written instructions:

- repair such defective land or areas; or
- correct such defective Work; or
- if the defective Work has been rejected by the Borough, remove it from the Project and replace it with Work that is not defective, and
- satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Article 9, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed. If, instead of requiring correction or removal and replacement of defective Work, the Borough prefers to accept it, the Borough may do so.

If Contractor fails within a reasonable time after written notice from the Borough to correct defective Work, or to remove and replace rejected Work, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, the Borough may, after seven (7) days written notice to Contractor, correct, or remedy any such deficiency.

All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by the Borough in exercising the rights and remedies under this Paragraph will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the Borough shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses, and damages will include but not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

### **Article 10 - Applicable Law / Venue**

This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, and in the event of dispute the venue of any action brought hereunder, upon the conclusion of mediation, as set forth in the General Terms and Conditions, shall be in Franklin County Court of Common Pleas.

**Article 11 - Entire Agreement / Amendments**

This Agreement contains the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties. This Agreement cannot be modified, except by a written document signed by the parties hereto. Town Council's approval at a public meeting shall be required to amend this Agreement unless otherwise delegated to its designees.

**Article 12 - Force Majeure**

The Borough, the Contractor, and sub-contractors shall not be held responsible for any delay, default, or nonperformance directly caused by an act of God, unforeseen adverse weather events, accident, labor strike, fire, explosion, riot, war, rebellion, terrorist activity, sabotage, flood, epidemic, act of federal or state government, labor, material, equipment, or supply shortage. Notwithstanding the foregoing, such delays, defaults, or nonperformance shall result from matters that would not be reasonably foreseen by a Contractor exercising reasonable due diligence and/or care.

**Article 13 - Non-Discrimination**

The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Contractor to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

**Article 13 - Remedies**

No remedy herein conferred upon any party is exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or provided by law, equity, statute, or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other exercise or further exercise thereof.

**Article 14 - Severability**

If any term, provision, covenant, or condition of this Agreement is held by a court of competitive jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

**Article 15 - Counterparts**

This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

**IN WITNESS WHEREOF** the parties hereto have set their hands and seals as of the date first above written.

**(SIGNATURES APPEAR ON FOLLOWING PAGE(S))**

**(If Contractor is an Individual)**

|                               |                                  |
|-------------------------------|----------------------------------|
| _____<br>Signature of Witness | _____<br>Signature of Individual |
|                               | Trading and doing business as:   |
|                               | _____<br>Name of Business        |
|                               | _____<br>Address of Business     |

**(If Contractor is a Partnership - All General Partners Must Sign)**

|                               |                                 |
|-------------------------------|---------------------------------|
|                               | _____<br>Name of Partnership    |
|                               | _____<br>Address of Partnership |
| _____<br>Signature of Witness | _____<br>Signature of Partner   |
| _____<br>Signature of Witness | _____<br>Signature of Partner   |
| _____<br>Signature of Witness | _____<br>Signature of Partner   |

**(If Contractor is a Corporation)**

Attest:

|   |  |
|---|--|
|   | _____<br>Name of Corporation                         |
| _____<br>Signature of Secretary or<br>Assistant Secretary | _____<br>Address of Principal Office                 |
| (Corporate Seal)  | _____<br>State of Incorporation                      |
|   | _____<br>Signature of<br>President or Vice President |

Attest:

**BOROUGH OF CHAMBERSBURG**

100 South 2<sup>nd</sup> Street  
Chambersburg, PA 17201

---

Jamia L. Wright

**Borough Secretary**

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Allen B. Coffman

**President of Town Council**

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**END OF AGREEMENT**

**PERFORMANCE BOND**

CONTRACTOR (Name and Address):                      SURETY (Name and Address):

OWNER (Name and Address):                      **BOROUGH OF CHAMBERSBURG**  
100 South Second Street  
Chambersburg, PA 17201

**AGREEMENT**

Amount:

Project Identification

**Miscellaneous Electrical Transmission  
Construction Assistance  
January 1, 2017 thru December 31, 2018**

Contract Identification:

General Construction

**BOND**

Date:

Amount:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the Performance of the Work as defined by the Agreement, which is incorporated herein by reference.
2. If the Contractor performs the Work, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner has notified the Contractor and the Surety at its address described in Article 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Work. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Work, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor default; and
  - 3.2 The Owner has declared a Contractor default and formally terminated the Contractor's right to complete the Work. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Paragraph 3.1; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Agreement or to a contractor selected to perform the Work in accordance with the terms of the Agreement with the Owner.

4. When the Owner has satisfied the conditions of Article 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Work; or
  - 4.2 Undertake to perform and complete the Work itself, through its agents or through independent contractors; or
  - 4.3 Obtain Proposals or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Work, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Work, and pay to the Owner the amount of damages as described in Article 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
  - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
    2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
5. If the Surety does not proceed as provided in Article 4 within fifteen (15) business days of Owner's satisfaction of the conditions of Article 3, or within twenty-four (24) hours after notice, where notice states that immediate action by the Surety is necessary to safeguard life or property, the Surety shall be deemed to be in default on this Bond three (3) days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Work, and if the Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Agreement, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Agreement. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Work, the Surety is obligated without duplication for:
  - 6.1 The responsibilities of the Contractor for:
    1. Completion of the Work.
    2. Correction of defective work during the one-year Correction Period, as defined in Paragraph 11 of the Agreement. The one-year Correction Period shall be extended for one year from the completion of the correction of defective work.
  - 6.2 Additional legal, design, professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Article 4; and
  - 6.3 Liquidated damages, or at the option of the Owner, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Work, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.

8. To the extent of payment to the Surety of the Balance of the Contract Price, the Surety shall defend, indemnify, and hold harmless the Owner from all claims, suits, causes of action, and demands (including all costs of litigation and reasonable attorney fees), which are brought against Owner by Contractor or by any other party and which arise from or by reason of payment to the Surety of the Balance of the Contract Price.

9. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders, and other obligations.

10. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working and within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Article are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

11. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the front page.

12. When this Bond has been furnished to Owner in compliance with the Public Works Contractor's Bond Law of 1967, 8 P.S. § 191 *et. seq.*, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

13. The law controlling the interpretation or enforcement of this Bond shall be Pennsylvania Law.

14. Definitions:

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Agreement after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Agreement.

14.2 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement.

14.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Agreement or to perform and complete or comply with the other terms thereof.

**(If Contractor is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Contractor is a Partnership - All General Partners Must Sign)**

\_\_\_\_\_  
Name of Partnership

\_\_\_\_\_  
Address of Partnership

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

**(If Contractor is a Corporation)**

ATTEST:

|  |   |
|--|---|
|  | _____                                       |
|  | Name of Corporation                         |
| _____  | _____                                       |
| Signature of Secretary or<br>Assistant Secretary | Address of Principal Office                 |
| (CORPORATE SEAL)                                 | _____                                       |
|  | State of Incorporation                      |
|  | _____                                       |
|  | Signature of<br>President or Vice President |

Type or print name below each signature.

**(Corporation Surety)**

|                      |                               |
|----------------------|-------------------------------|
|                      | _____                         |
|                      | Name of Corporation           |
|                      | _____                         |
|                      | Address of Office             |
| _____                | _____                         |
| Signature of Witness | Signature of Attorney-in-fact |

Attach an appropriate power of attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**END OF PERFORMANCE BOND**

**PAYMENT BOND**

CONTRACTOR (Name and Address): SURETY (Name and Address):

OWNER (Name and Address): **BOROUGH OF CHAMBERSBURG**  
100 South Second Street  
Chambersburg, PA 17201

**AGREEMENT**

Amount:

Project Identification: **Miscellaneous Electrical Transmission Construction Assistance**  
**January 1, 2017 thru December 31, 2018**

Contract Identification: **General Construction**

**BOND**

Date:

Amount:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Work as defined by the Agreement, which is incorporated herein by reference.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
  - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2 Defends, indemnifies, and holds harmless the Owner from all claims, demands, liens, or suits by any person or entity who furnished labor, materials, or equipment for use in the performance of the Work, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Article 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
  - 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Article 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2 Claimants who do not have a direct contract with the Contractor:

1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
  2. Have either received a rejection in whole or in part from the Contractor, or not received within thirty (30) days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
  3. Not having been paid within the above thirty (30) days, have sent a written notice to the Surety (at the address described in Article 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
5. If a notice required by Article 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Article 4, the Surety shall promptly and at the Surety's expense take the following actions.
  - 6.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 6.2 Pay or arrange for payment of any undisputed amounts.
  - 6.3 The Surety's failure to discharge its obligations under this Section 6 shall not be deemed to constitute a waiver of defenses the Surety or the Contractor may have or acquire as to a claim. However, if the Surety fails to discharge its obligations under this Section 6, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs to recover any sums found to be due and owing to the Claimant under this Section 6.
7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
8. Amounts owed by the Owner to the Contractor under the Agreement shall be used for the performance of the Work and to satisfy claims, if any, under any Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Work are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the Work.
9. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Work. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraphs 4.2.3 or 4.1, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Agreement, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the front page. Actual receipt of notice by Surety, the Owner, or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the front page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions:

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Work. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Work, architectural and engineering services required for performance of the Work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Agreement or to perform and complete or comply with the other terms thereof.

**(If Contractor is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Contractor is a Partnership - All General Partners Must Sign)**

|       |                      |                               |
|-------|----------------------|-------------------------------|
|       | _____                | Name of Partnership           |
|       |                      | _____                         |
|       |                      | <b>Address of Partnership</b> |
| _____ | Signature of Witness | _____                         |
|       |                      | Signature of Partner          |
| _____ | Signature of Witness | _____                         |
|       |                      | Signature of Partner          |
| _____ | Signature of Witness | _____                         |
|       |                      | Signature of Partner          |

**(If Contractor is a Corporation)**

ATTEST:

|                  |  |   |
|------------------|--|---|
|                  | _____  | Name of Corporation                         |
|                  |  | _____                                       |
| _____            | Signature of Secretary or<br>Assistant Secretary | _____                                       |
|                  |  | Address of Principal Office                 |
| (CORPORATE SEAL) |  | _____                                       |
|                  |  | State of Incorporation                      |
|                  |  | _____                                       |
|                  |  | Signature of<br>President or Vice President |

Type or print name below each signature.

**(Corporation Surety)**

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Address of Office

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney-in-fact

Attach an appropriate power of attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**END OF PAYMENT BOND**

# Receipt of Confirmation of Proposal Documents

For

## Miscellaneous Electrical Transmission Construction Assistance January 1, 2017 thru December 31, 2018

All prospective Proposers who obtained the Proposal Documents electronically must fax this "Receipt of Confirmation" form no later than 9:00 AM on Friday, December 02, 2016 EST to:

Jamia L. Wright, Borough Secretary, at (717) 264-0224.

**The undersigned confirms receipt of all 42 pages of the Proposal and contract documents dated November 14, 2016 for the project referenced above as posted electronically at [www.borough.chambersburg.pa.us](http://www.borough.chambersburg.pa.us).**

Name of Company \_\_\_\_\_  
Name of Recipient \_\_\_\_\_  
Signature of Recipient \_\_\_\_\_  
Title of Recipient \_\_\_\_\_  
Phone No: \_\_\_\_\_  
Fax No: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Date: \_\_\_\_\_