

## GENERATOR MAINTENANCE CONTRACT

**THIS GENERATOR MAINTENANCE Contract** (the “Contract”) is made between NIXON POWER SERVICES, LLC (“Company”) with its principal place of business at 155 Franklin Road Suite 255, Brentwood, TN 37027, and the WHITFIELD COUNTY SCHOOL DISTRICT (the “District”).

**WHEREAS**, on November 4, 2020, the District sought competitive quotes for Preventative Maintenance and Service on District Generators pursuant to proposal documentation #WCS-QT-FA-2020-021 (hereinafter “Proposal Documents”); and

**WHEREAS**, Company submitted its proposal to the District on or before November 20, 2020; and

**WHEREAS**, the Whitfield County Board of Education determined that Company met the established criteria and is willing to employ Company; and

**WHEREAS**, Company desires to enter into a Contract for Preventative Maintenance and Service on Generators for the District:

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties do hereby agree, represent, warrant and stipulate to the following:

1. **INCORPORATION OF PROPOSAL DOCUMENTS.** A copy of the District’s invitation to quote and Company’s proposal dated November 20, 2020 are attached as Exhibit A and are incorporated into this Contract.
2. **TERM.** The term of this Contract will be from January 1, 2021 through December 31, 2021. At the District’s sole option, it may extend the term of this Contract for up to four (4) one year terms upon the same terms and conditions set forth herein. In the event of extension, the cost of the proposal may be increased or decreased based on consumer price index or other relevant market forces that are beyond the control of the contractor. All price increases must be presented in writing to the District ninety (90) days before the end of the calendar year. The District must agree to changes in writing.
3. **MATERIALS AND SUPPLIES.** Company will furnish all materials, equipment, supplies and labor necessary to perform the scope of work referenced in the request for proposal.
4. **TERMINATION BY BOARD.**
  - a. **For Cause.** The District may terminate this Contract for cause after providing two (2) days written notice to the Company; and

b. **Without Cause.** The District may terminate this Contract without cause by providing the Company thirty (30) days written notice.

5. **PAYMENT.** Company shall provide written invoices for all work completed during the previous month. Undisputed payment being due and payable on the 30<sup>th</sup> day of each succeeding month after receipt of invoice. Total payment to Company shall not exceed \$6,150.00 for annual maintenance consisting of 1 major service and 2 minor services. Service calls outside the scope of annual maintenance will be billed as \$550.00 minimum charge (4 hours labor + travel charge) plus \$125.00 per additional hour during normal business hours, \$187.50 overtime hours and \$250.00 double time.
6. **INDEMNIFICATION.** Company shall indemnify and hold harmless the District, its Board of Education, agents, employees, and officers from all claims, expenses (including attorney's fees and costs of defense) and losses and damages to any person or property, other than losses or damages resulting from the District's gross negligence, that result from the negligent or wrongful acts or omissions of the Company, its employees, agents, or from the operation of its equipment. This provision shall survive the expiration or termination of this Contract.
7. **INSURANCE.** The Company shall purchase and maintain, with a provider acceptable to the District, such insurance as will protect him from claims under Workmen's Compensation laws, disability benefit laws or other similar employee benefit laws; from claims for damages because of bodily injury, occupational sickness or disease, or death of employees, and claims insured by usual personal injury liability coverage; from claims for damages because of bodily injury, sickness or disease, or death of any person other than employees including claims insured by usual personal injury liability coverage; and from claims for injury to or destruction of tangible property, including loss of use resulting therefrom, any or all of which may arise out of or result from the Company's operations under the Contract Documents, whether such operations be by Company or by a subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. This insurance shall be written for not less than limits of liability specified below or required by law, whichever is greater. A statement is to be included on the Certificate of Insurance verifying that the District will be notified by Certified Mail 15 days prior to termination of Company's insurance. Certificates for Worker's Compensation, General Liability and Vehicle/Equipment Insurance will be required and submitted as part of the proposal package.
  - (a) Workmen's Compensation - Statutory (minimum for the State of Georgia).
  - (b) Manufacturers' and Company's Liability, covering operations performed by or for the Company, with limits of not less than:
    - o Bodily Injury - \$ 500,000 Per Person.
    - o Bodily Injury - \$1,000,000 Aggregate Limit
    - o Property Damage - \$ 500,000 Per Occurrence
    - o Property Damage - \$1,000,000 Aggregate Limit

- (c) Automobile Liability, covering owned, non-owned and hired automobiles, with limits not less than: (Combined Single Limit - Bodily-\$ 1,000,000. Injury and Property Damage).
- (d) Company Liability, covering liability of others assumed by the Company elsewhere in the contract under "Hold Harmless" Agreements or similar assumptions of liability with limits as required in (b) above.
- (e) Umbrella or Excess Loss Coverage - \$10,000,000 Per Occurrence

The Company shall provide the District with Insurance certificates certifying that the foregoing insurance is in force; and such insurance certificates shall include provisions that the insurance shall not be cancelled, allowed to expire or be materially changed without giving the District fifteen (15) days' advance notice by registered mail.

8. **OTHER LAWS AND REGULATIONS.** The Company will comply with any and all applicable federal, state and local standards, regulations, laws, statues and ordinances, regarding toxic, hazardous and solid wastes -and any other pollutants; public and private nuisances; health or safety; and zoning, subdivision or other land use controls. The Company will take all reasonably necessary, proper or required safety, preventative and remedial measures in accordance with any and all regulations and directives from the Georgia Department of Human Resources, the Unites States Environmental Protection Agency, the Georgia Department of Environmental Management, Health Departments, and any other federal, state or local agency having jurisdiction, to insure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued there under.
9. **E-VERIFY.** Company agrees that compliance with the requirements of O.C.G.A. § 13-10-91, et seq., Georgia State Board Rule 300-10-1-.02 et seq, and O.C.G.A. § 50-36-1- et seq., are essential conditions of this Agreement. By signing this Agreement, Company certifies that it is in compliance with the above referenced statutes and State Board of Education Rule and will continue to comply during the terms of this Service Agreement and will provide District with the required documentation.
10. **GOVERNING LAW – VENUE AND JURISDICTION.** The Contract shall be governed by the laws of the State of Georgia, regardless of any conflict of law or rules that would require an application of the laws of another jurisdiction. Venue and jurisdiction shall be proper only in the federal and state courts located or serving the Whitfield County, Georgia, area.
11. **SEVERABILITY.** If any provision of this Contract is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party hereto under this Contract will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Contract will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Contract will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance here

from and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

12. **WAIVER.** Except as provided in this Contract, no failure on the part of any party hereto to exercise, and no delay in exercising, any right, power or remedy hereof shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy by any such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver or assent by any party hereto to any breach of or default in any term or condition which this Contract requires to be performed or observed shall constitute a waiver of or consent to any succeeding breach of or default of the same or any other term or condition hereof.

13. **NOTICES.** All notices, requests, demands, payments, tenders, offers and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or if mailed first class, certified mail, postage prepaid as follows:

**Company:**

Nixon Power Services, LLC  
155 Franklin Road, Ste 255  
Brentwood, TN 37027

Attn: Dana Barker

**District:**

Whitfield County Board of Education  
P. O. Box 216  
Dalton, Georgia 30722-2167

Attn: Eric Patterson

**IN WITNESS WHEREOF**, the parties have executed this Agreement under seal as of the date(s) set forth below.

**COMPANY:**

**NIXON POWER SERVICES, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DISTRICT:**

**WHITFIELD COUNTY SCHOOL DISTRICT**

By: 

Title: Bill Worley/Chairman

Date: December 7, 2020

**EXHIBIT A**

**INVITATION TO QUOTE  
AND VENDOR RESPONSE**



## Whitfield County Schools

1306 South Thornton Avenue, Dalton, Georgia 30721

wcsga.net • (706) 217-6780

*tradition • purpose • excellence*

# Invitation to Quote

For

## Generator Maintenance

For The

**Whitfield County Schools**

**Purchasing Department**

1030 Hill Road

Dalton, GA 30721

**BID # WCS-QT-FA-2020-021**

November 4, 2020



**BID SUBMISSION**  
**Generator Maintenance**

Having also examined/understood the Products / Services specifications and requirements, the Undersigned hereby proposes to furnish all products, labor, equipment, tools, transportation, services, licenses, fees, permits, etc., required by said document to complete all divisions of the Products / Services stipulated above for the sum included below.

**Respectfully submitted:**

\_\_\_\_\_**Nixon Power Services LLC**\_\_\_\_\_  
**Contractor/Vendor (Company Name)**

**Dana Barker Service Sales Agreement Admin**  
\_\_\_\_\_  
**Representative (Name and title)**

**615-946-5627**  
\_\_\_\_\_  
**Telephone Number**

**dbarker@nixonpower.com**  
\_\_\_\_\_  
**Email Address**

**Dana Barker 11/04/2020 12:02pm**  
\_\_\_\_\_  
**Signature**

155 Franklin Road ste 255 Brentwood Tn 37027  
\_\_\_\_\_  
**Business Address**  
**42-1608629**

\_\_\_\_\_  
**Federal I.D. Number**

\_\_\_\_\_**\$6950.00** all units \_ (Dollars) for Products / Services rendered (1 Major and 3 Minor).

\_\_\_\_\_**\$6150.00** all units \_\_\_ (Dollars) for Products / Services rendered (1 Major and 2 Minor).

\_\_\_\_\_**\$550.00** (4 hrs labor plus trip chg.)not including parts (Dollars) for Service Call - Minimum cost.



\_\_\_\_\_125.00 stnd 187.50 ot , 250.00 double time \_\_\_\_\_ (Dollars) for Labor Cost per hour.

Whitfield County Schools understands billing will be due for the full amount of the Products / Services upon delivery, completion, and signed off on by **Facilities Director**.

**EXHIBIT A**  
**Additional Work/Product Specifications**

**I. Generators and locations:**

<b>Generator</b>	<b>Location</b>
Baldor 35 kW Model 1095935-G20 240V Engine Vortec GM4.3L	Whitfield County Central Office Building 1306 South Thornton Ave Dalton, GA 30720
Olympian 100 kW Model G100F3 480V Engine Ford Model WSG1068	Coahulla Creek High School 3361 Crow Road Dalton, GA 30721
Generac 60 kW Model QT06030GNSN 208V 3 Phase Engine Ford	Westside Elementary School 1815 Utility Road Rocky Face, GA 30740
Kohler 150 kW Model 150REZGC 480V 3 Phase Engine GM 8.8L	Valley Point Middle School 3796 South Dixie Hwy Dalton, GA 30720

**II. Service**

- Quarterly PM services (1 major PM . 3 minor PMs) – major PM includes oil change, filter change, fluid analysis, air filter will be inspected and quoted for replacement as needed – performed during RT (M-F, 8AM-5PM)
- Annual ATS inspection/maintenance – performed with major or minor PM
- Annual 2 hr load bank testing – performed during RT (M-F, 8AM-5PM)

**III. Alternative Service**

- Same as above but only 2 minor PMs per year.

**IV. Service Call Costs**

- Please provide standard costs for a service call including cost per hour, travel time we would pay for and any other costs that are not directly related to actual time and materials once you are on site.