Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

June 20, 2007

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B7200192
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Hagemeyer, NA 1460 Tobias Gadson Blvd. Charleston, SC 29407 Remittance to: Mail Code (008) Email:aoliver@hagemeyerna.com	**TELEPHONE Al Oliver** (734) 721-5008 **VENDOR NUMBER/MAIL CODE** **BUYER (517) 373-0301** Sue Cieciwa
Contract Compliance Inspector: Jason Nairn (517) 241-2488 Homeland Security and Public Safety Equipment and Related Services, U.S. Communities Government Purchasing Alliance Contract - Statewide	
CONTRACT PERIOD: From: June 5, 2007	To: September 30, 2008
TERMS Net 30 days	**SHIPMENT** N/A
F.O.B. Delivered	**SHIPPED FROM** N/A
MINIMUM DELIVERY REQUIREMENTS There is no minimum order size.	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.

NATURE OF CHANGE:

Paragraph #7 of the U.S. Communities Master Intergovernmental Cooperative Purchasing Agreement (MICPA) in reference to Contract #RQ06-814063-10A, is clarified per attached Addendum #1.

All other terms, conditions, specifications, and pricing remain the same.

AUTHORITY/REASON:

Per the Department of Attorney General, by memorandum dated January 16, 2007 and Addendum #1 executed by Fairfax County, VA and DMB, Purchasing Operations.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $6,850,330.00

ADDENDUM #1 to Master Intergovernmental Cooperative Purchasing Agreement in reference to #RQ06-814063-10A

The purpose of this Addendum is to clarify paragraph #7 of the U.S. Communities Master Intergovernmental Cooperative Purchasing Agreement (MICPA) in reference to contract #RQ06-814063-10A.

Fairfax County, Virginia, the Lead Public Agency for contract #RQ06-814063-10A, acknowledges that the State of Michigan is constitutionally prohibited from indemnifying, Const 1963, art 9, § 18.

All other provisions of the original contract, #RQ06-814063-10A shall apply to this Addendum.

The signatories, listed below, are duly authorized to sign on each party's behalf:

Acknowledged:

Cathy A Muse

Cathy Muse
Director
Purchasing & Supply Management
Fairfax County, VA

Date: 6/18/07

Acknowledged:

Sue Cieciwa

Sue Cieciwa, Buyer Specialist
Purchasing Operations
Department of Management and Budget
State of Michigan

Date: 6/19/07

agD
6/19/07

Form No. DMB 234 (Rev. 1/96)
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STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

June 13, 2007

NOTICE
OF
CONTRACT NO. 071B7200192
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Hagemeyer, NA** **1460 Tobias Gadson Blvd.** **Charleston, SC 29407** **Remittance to: Mail Code (008)** **Email:aoliver@hagemeyerna.com**	TELEPHONE Al Oliver **(734) 721-5008** VENDOR NUMBER/MAIL CODE **(2) 56-2281578 (007)** BUYER (517) 373-0301 **Sue Cieciwa**
Contract Compliance Inspector: Jason Nairn (517) 241-2488 **Homeland Security and Public Safety Equipment and Related Services,** **U.S. Communities Government Purchasing Alliance Contract - Statewide**	
CONTRACT PERIOD: From: **June 5, 2007** To: **September 30, 2008**	
TERMS **Net 30 days**	SHIPMENT **N/A**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **There is no minimum order size.**	
MISCELLANEOUS INFORMATION:	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.

The terms and conditions of this Contract are attached. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: $6,850,330.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B7200192
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Hagemeyer North America, Inc.** **1460 Tobias Gadson Blvd.** **Charleston, SC 29407** **Remittance to: Mail Code (008)** **Email:aoliver@hagemeyerna.com**	TELEPHONE Al Oliver **(734) 721-5008** VENDOR NUMBER/MAIL CODE **(2) 56-2281578 (007)** BUYER (517) 373-0301 **Sue Cieciwa**
Contract Compliance Inspector: Jason Nairn (517) 241-2488 **Homeland Security and Public Safety Equipment and Related Services,** **U.S. Communities Government Purchasing Alliance Contract - Statewide**	
CONTRACT PERIOD: From: **June 5, 2007** To: **September 30, 2008**	
TERMS **Net 30 days**	SHIPMENT **N/A**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **There is no minimum order size.**	
MISCELLANEOUS INFORMATION: **THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT THROUGH MIDEAL.** **The terms and conditions of this Contract are attached. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.** **Estimated Contract Value: $6,850,330.00**	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. N/A . Orders for delivery of equipment will be issued directly by State Agencies through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE VENDOR:	FOR THE STATE:
Hagemeyer North America, Inc. Firm Name	Signature
Authorized Agent Signature	**Anthony Des Chenes, Director** Name/Title
Authorized Agent (Print or Type)	**Commodities Division, Purchasing Operations** Division
Date	Date

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS

Contract No. 071B7200192
Homeland Security and Public Safety Equipment
and Related Services
U.S. Communities Government Purchasing Alliance Contract - Statewide

Buyer Name: Sue Cieciwa
Telephone Number: (517) 373-0301
E-Mail Address: cieciwas@michigan.gov

Homeland Security and Public Safety Equipment and Related Services

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Homeland Security Master Agreement #RQ06-814063-10A
Master Intergovernmental Cooperative Purchasing Agreement

Article1 – Statement of Work (SOW)

1.0 Introduction

1.001 DEFINING DOCUMENT

This document contains or incorporates defined requirements, the specifications and scope of work, and all contractual terms and conditions. This contract is based on the U.S. Communities Government Purchasing Alliance Contract competitively solicited by Fairfax County, Virginia as the lead agency. Please refer to the attached Homeland Security Master Agreement #RQ06-814063-10A with Hagemeyer North America, Inc. and Master Intergovernmental Cooperative Purchasing Agreement.

1.002 PROJECT TITLE AND DESCRIPTION

This Contract is to provide terms, conditions and pricing for various State Agencies, primarily Michigan State Police and the Department of Military and Veterans Affairs, for the procurement of Homeland Security equipment. This Contract provides the opportunity for authorized state emergency responders to acquire various equipment relating to personal protection, explosive device mitigation and remediation, Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) search and rescue, interoperable communications, detection, decontamination, physical security enhancement, and terrorism incident prevention.

1.003 PROJECT CONTROL

Project Control

a. The Contractor will carry out this project under the direction and control of the Department of Management and Budget.

b. Although there will be continuous liaison with the Contractor team, the client agency's project director will meet as required with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.

c. The Contractor will submit brief written monthly summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the client agency's project director; and notification of any significant deviation from previously agreed-upon work plans. A copy of this report will be forwarded to the named buyer in Purchasing Operations.

1.004 COMMENCEMENT OF WORK

Contractor shall show acceptance of this agreement by signing a copy of this contract and returning it to the contract administrator. Contractor shall not proceed with performance of the work to be done under this agreement, including the purchase of necessary materials, until both parties have signed this agreement to show acceptance of its terms.

1.1 Product Quality

1.101 SPECIFICATIONS

Definite Specifications - All commodities and/or services to be furnished hereunder shall conform to the specifications as noted in the attached Homeland Security Master Agreement #RQ06-814063-10A.

1.102 RESEARCH AND DEVELOPMENT

Contractor shall have the ability to invest in new product development and research to stay current with ongoing demands.

1.103 QUALITY ASSURANCE PROGRAM

The Contractor shall have a Quality Assurance program currently in place within their organization.

1.104 WARRANTY FOR PRODUCTS OR SERVICES

The warranty for products or services procured under this Contract shall be a minimum of one (1) year from the date of delivery or installation date, if installed, to include parts, labor, and all return delivery cost.

1.2 Service Capabilities

1.201 CUSTOMER SERVICE/ORDERING

Contractor shall have the capacity to receive orders electronically, by phone, facsimile, and by written order. The Contractor shall provide a statewide toll-free phone number for phone orders. Contractor shall have internal controls, approved by Purchasing Operations, to insure that authorized individuals with the State place orders. The Contractor shall verify orders that have quantities that appear to be abnormal or excessive.

The Contractor shall have an accessible customer service department with an individual specifically assigned to State of Michigan accounts. The Contractor shall have experienced sales representatives make timely personal visits to State accounts. The Contractor's customer service must respond to State agency inquiries promptly. The Contractor shall provide a statewide toll-free number for customer service calls.

Customer Service (Quotes & Orders) Contact Information:

Contact: John McLoughlin
Phone: (866) 506-9361
Fax: (800) 332-4364
Email: jmcloughlin@hagemeyerna.com
Hagemeyer North America, Inc.
6550 Best Friend Rd.
Norcross, GA 30071

Any supplies and services to be furnished under this Contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule.

All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods.

1.202 TRAINING

The Contractor shall provide training to individual agencies, when necessary, on aspects of ordering, shipping, billing, and receiving. At the request of the Contract Administrator, the Contractor shall provide in-service training to agency personnel on products, installation, and product safety issues. The Contractor shall also provide agency training jointly with the State as needed during the period covered by the contract at no additional charge.

1.203 REPORTING

Contractor shall be able to provide various reports, when requested by the State. At a minimum, the Contractor shall electronically submit usage reports in an Excel spreadsheet format. Reports are to be submitted to the Department of Management and Budget, via email to Jason Nairn at nairnj@michigan.gov and to Sue Cieciwa at cieciwas@michigan.gov.

a. Usage reports by agency and statewide (including MiDeal usage report) indicating the number and price of each item sold. This report will be submitted monthly by the 15th day of the month following the reporting period.
b. Custom reports that the Contract Compliance Inspector may request at any time on an as-needed basis.

1.204 SPECIAL PROGRAMS - RESERVED

1.205 SECURITY

This Contract may require frequent deliveries to State of Michigan facilities. The Contractor shall ensure the security and safety of these buildings. This shall include, but is not limited to, performance of security background checks on all personnel assigned to State of Michigan facilities (i.e. delivery people) and how they are performed, what the security check consists of, the name of the company that performs the security checks, use of uniforms and ID badges, etc. If security background checks are performed on staff, the Contractor shall indicate the name of the company that performs the check as well as provide a document stating that each employee has satisfactorily completed a security check and is suitable for assignment to State facilities. Upon request by the State, the Contractor shall provide the results of all security background checks.

Upon review of the security measures included by the Contractor, the State will decide whether to issue State ID badges to the Contractor's delivery personnel or accept the ID badge issued to delivery personnel by the Contractor.

The State may decide to also perform a security background check. If so, Contractor will be required to provide to the State a list of all delivery people that will service State facilities, including name and date of birth (social security number or driver license number would also be helpful).

The Contractor and its subcontractors shall comply with the security access requirements of individual State facilities (ex. The Department of Corrections requires LEIN checks be performed on anyone entering a prison facility).

1.3 Delivery Capabilities

1.301 TIME FRAMES

State Agencies shall contact Contractor directly for delivery time frames and reference the U.S. Communities Program.

1.302 MINIMUM ORDER

There is no minimum order size.

1.303 PACKAGING

The Contractor is requested to provide packaging that most closely meets these packaging sizes. However, the Contractor can submit alternates. The state reserves the right of final approval on packaging offered by the Contractor.

Packaging and containers, etc., shall be in accordance with supplier's commercial practice and shall meet the requirements of Department of Transportation (D.O.T.) and rail and motor carrier freight classifications in effect at time of shipment, which will permit application of the lowest freight rate.

1.304 PALLETIZING

Shipments shall be palletized whenever possible and shall conform to the following:

- **Manufacturers standard 4-way shipping pallets are acceptable.**
- **Maximum height: 5'6"; including pallet.**
- **Maximum weight: 3500 pounds; including pallet.**
- **Pallets are to be securely banded or shrink-wrapped.**
- **The cost of palletizing must be included in the unit price.**

1.305 DELIVERY TERM

Prices shall be quoted "F.O.B. Delivered" with transportation charges prepaid on all orders to the State.

1.306 RESERVED FOR ACCEPTANCE OF DELIVERABLES/PARE EXPLANATION

1.4 Project Price

1.401 PROPOSAL PRICING

Please refer to Contractor's attached Pricing Structure (page 3 of 3). For details, please refer to the Contractor's catalog. State Agencies shall contact Contractor directly for pricing and reference the U.S. Communities Program.

1.402 QUICK PAYMENT TERMS - RESERVED

1.403 PRICE TERM

Please refer to Article 16.0 Prices and Price Adjustment, Contract #RQ06-814063-10A.

1.5 Quantity term

(X) Requirements – Vendor agrees to supply all that the state requires

Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

The Contract is for Homeland Security equipment for the State of Michigan. Exact quantities to be purchased are unknown, however the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

All State departments and agencies, and authorized MiDEAL members may issue orders for items listed on this Contract at the same prices, terms and conditions, as specified in Article 3 Certifications and Representations.

2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

The Contract is issued by Purchasing Operations, State of Michigan, Department of Management and Budget, hereinafter known as Purchasing Operations, for the State of Michigan, hereinafter known as the State. Where actions are a combination of those of Purchasing Operations and the State agencies, the authority will be known as the State.

Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Purchasing Operations is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Purchasing Operations will remain the SOLE POINT OF CONTACT throughout the procurement process.

Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Purchasing Operations and the listed contract administrator.

All communications covering this procurement must be addressed to contract administrator indicated below:

Department of Management and Budget
Purchasing Operations
Attn: Laura Gyorkos, Contract Administrator
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) 373-1455
gyorkosl@michigan.gov

2.003 NOTICE

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

2.004 CONTRACT TERM

The term of this Contract will be for sixteen (16) months and will commence with the issuance of a Contract. The Contract will be in effect from the date of the last obtained authorizing signature through September 30, 2008.

Option. **At the sole option of the State, this Contract may be extended to coincide with any extension of Contract #RQ06-814063-10A, which specifies 3 renewal periods of twelve months each. Contractor performance, quality of products, price, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Purchasing Operations to extend the Contract.**

2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)
MI OSHA MCL §§ 408.1001 – 408.1094
Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.
Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.
MI Consumer Protection Act MCL §§ 445.901 – 445.922
Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.
Department of Civil Service Rules and regulations
Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.
Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.
MCL §§ 423.321, et seq.
MCL § 18.1264 (law regarding debarment)
Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.
Contract Work Hours and Safety Standards Act (CWHSAA) 40 USCS § 327, et seq.
Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795
Rules and regulations of the Environmental Protection Agency
Internal Revenue Code
Rules and regulations of the Equal Employment Opportunity Commission (EEOC)
The Civil Rights Act of 1964, USCS Chapter 42
Title VII, 42 USCS §§ 2000e et seq.
The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.
The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.
The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.
The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.
The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.
Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106
Sherman Act, 15 U.S.C.S. § 1 et seq.
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.
Clayton Act, 15 U.S.C.S. § 14 et seq.

2.007 RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

2.008 HEADINGS

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

2.009 MERGER

This Contract represents the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

2.010 SEVERABILITY

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract are found to be null and void by a court of competent jurisdiction, the remaining provisions of the Contract shall remain in full force and effect.

2.011 SURVIVORSHIP

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of the Contract up to the time that the obligation is no longer owing under its term(s), e.g. a warranty.

2.012 NO WAIVER OF DEFAULT

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Contract.

2.013 PURCHASE ORDERS

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

2.1 Vendor/Contractor Obligations

2.101 ACCOUNTING RECORDS

The Contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the pricing described in the Contract in accordance with accepted principles of accounting and other procedures specified by the State of Michigan, as specified in the Contract. Financial and accounting records regarding this Contract shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

2.102 NOTIFICATION OF OWNERSHIP

The Contractor shall make the following notifications in writing:

1. **When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Purchasing Operations within 30 days.**

2. The Contractor shall also notify the Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;

2. Provide Purchasing Operations or designated representative ready access to the records upon request;

3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and

4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

2.103 SOFTWARE COMPLIANCE

The vendor warrants that all software for which the vendor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

2.104 RESERVED

2.105 PERFORMANCE AND RELIABILTIY EVALUATION (PARE) - RESERVED

2.106 PREVAILING WAGE

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Consumer and Industry Service, Bureau of Safety and Regulation, Wage/Hour Division schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

The Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Consumer and Industry Services, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

2.107 PAYROLL AND BASIC RECORDS

Payrolls and basic records relating to the performance of this contract shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors upon request from the Contract Administrator

The Contractor or subcontractor shall permit the Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If the Contractor or subcontractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

2.108 COMPETITION IN SUB-CONTRACTING

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

2.109 CALL CENTER DISCLOSURE

Vendor and/or all subcontractors involved in the performance of this contract providing call or contact center services to the State of Michigan must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this agreement.

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE - RESERVED

2.202 CONTRACT PAYMENT SCHEDULE

All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) will mutually agree upon the result of this RFP. The schedule should show payment amount and

should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 15th day of the following month.

2.203 POSSIBLE PROGRESS PAYMENTS

The Government may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered)-RESERVED

2.205 ELECTRONIC PAYMENT REQUIREMENT

Contractor is required to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at www.cpexpress.state.mi.us.

2.206 PERFORMANCE OF WORK BY CONTRACTOR - RESERVED

2.3 Contract Rights and Obligations

2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

2.302 CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve subcontractors and to require the Contractor to replace subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the subcontractor to all provisions of the Contract. Any change in subcontractors must be approved by the State, in writing, prior to such change.

2.303 ASSIGNMENT AND DELEGATION

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, or delegate any of its duties or obligations under the Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Purchasing Operations.

The Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Purchasing Operations has given written consent to the delegation.

Contractor must obtain the approval of the Director of Purchasing Operations before using a place of performance that is different from the address the Contractor provided in the bid.

2.304 TAXES

<u>Sales Tax</u>: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

<u>Federal Excise Tax</u>: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

2.305 INDEMNIFICATION

<u>General Indemnification</u>

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), to the extent and degree arising from or in connection with any of the following:

1. **Any claim, demand, action, citation or legal proceeding against the State, its employees and agents to the extent and degree arising out of or resulting from (1) Contractor not having title to, or the right to sell, the product provided or (2) Contractor's negligence or willful misconduct in the performance of the work, duties, or responsibilities, or the negligent actions or omissions of the Contractor or any of its subcontractors under this Contract.**

2. **Any claim, demand, action, citation or legal proceeding against the State, its employees and agents to the extent and degree arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;**

3. **Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to perform under this Contract;**

4. **Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State. In the event that the State is partially negligent, Contractor will indemnify the State only to the extent of Contractor's negligence;**

5. **Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.**

Patent/Copyright Infringement

Whenever products are ordered under this Contract, a requirement of the order is that the product or item must be free from patent and copyright infringements. Should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense use commercially reasonable efforts to (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

No Surreptitious Code Warranty

Whenever items or products with electronic chips or computer software are ordered, such as but not limited to, laptop computers, software, medical devices, etc., a requirement of the order is that the product complies with the No Surreptitious Code Warranty Provision.

The Contractor represents and warrants that no copy of licensed Software provided to the State contains any Self-Help Code or any Unauthorized Code (No Surreptitious Code) as defined below.

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software designated to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Codes does not include Software routines in a computer program, if any, designated to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spy ware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code. Unauthorized Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for the purposes of maintenance or technical support.

Indemnification Obligation Not Limited

Except as otherwise provided herein, in any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub clause.

Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect up to the time that the obligation is no longer owing under its term(s), e.g. a warranty, notwithstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

2.306 LIMITATION OF LIABILITY

Notwithstanding anything to the contrary in this Contract, Contractor's aggregate liability to the State for any losses, claims, damages, liabilities, of any kind or of any nature whatsoever suffered or incurred by the State, or their respective affiliates, employees, or other representatives under this Contract or in any way arising out of this Contract, shall be limited, in the aggregate, to twice the value of the Contract, including the value of any exercised options or amendments.

2.307 CONTRACT DISTRIBUTION

Purchasing Operations shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

2.308 FORM, FUNCTION, AND UTILITY

If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not the meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the Contractor hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

2.310 PURCHASING FROM OTHER STATE AGENCIES - RESERVED

2.311 TRANSITION ASSISTANCE - RESERVED

2.312 LIABILITY INSURANCE

A. Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives its rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract. Contractor does not waive the rights of its insurer.

All insurance coverage provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.

See www.michigan.gov/cis

Where specific limits are shown, they are the minimum acceptable limits.

Before both parties sign the Contract or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard

"accord" form or equivalent. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING. **All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.**

The Contractor is required to pay for and provide the type and amount of insurance checked below**:**

☑ **1. Commercial General Liability with the following minimum coverage:**

$5,000,000	**General Aggregate Limit other than Products/Completed Operations**
$5,000,000	**Products/Completed Operations Aggregate Limit**
$1,000,000	**Personal & Advertising Injury Limit**
$1,000,000	**Each Occurrence Limit**
$500,000	**Fire Damage Limit (any one fire)**

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ **2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.**

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ **3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.**

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☑ **4. Employers liability insurance with the following minimum limits:**

$100,000	**each accident**
$100,000	**each employee by disease**
$500,000	**aggregate disease**

☐ **5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars ($1,000,000.00) with a maximum deductible of fifty thousand dollars ($50,000.00).**

☐ **6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars ($10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.**

☐ **7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars ($3,000,000.00) each occurrence and three million dollars ($3,000,000.00) annual aggregate.**

☐ **8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.**

B. Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

C. Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or

significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.313 RESERVED

2.314 WEBSITE INCORPORATION

State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.315 WORKPLACE DISCRIMINATION

The Contractor represents and warrants that in performing services for the State pursuant to this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental handicap or disability. The Contractor further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq., and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq., and any breach thereof may be regarded as a material breach of the Contract or purchase order.

Vendor hereby represents that in performing this contract it will not violate The Civil Rights Act of 1964, USCS Chapter 42, including, but not limited to, Title VII, 42 USCS §§ 2000e et seq.; the Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.; or The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.; the Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626 et seq.; the Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.; or the Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

2.316 LABOR RELATIONS

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice **compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.**

The Contractor represents and warrants that the company does not appear in the current register of employers failing to correct an unfair labor practice.

2.4 Contract Review and Evaluation

2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Purchasing Operations of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies no authority to negotiate, change,

modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Purchasing Operations. **The Contract Compliance Inspector for this project is:**

Jason Nairn
Department of Management and Budget
Facilities Administration
615 W. Allegan Street
Lansing, MI 48933
(517) 241-2488
nairnj@michigan.gov

2.402 PERFORMANCE REVIEWS

Purchasing Operations in conjunction with the State agencies may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Purchasing Operations, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Purchasing Operations, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change.

2.502 QUALITY ASSURANCE

The State reserves the right to periodically test products, which have been received to verify compliance with specifications. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the Contractor shall be responsible for:

1. **All costs of testing and laboratory analysis.**
2. **Disposal and/or replacement of all products which fail to meet specifications.**
3. **All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.**

2.503 INSPECTION

All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of the Contract, the State shall have the right to reject the goods or retain the goods and correct the defects. The Contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the Contractor fails to make arrangements within the specified time period.

2.504 GENERAL WARRANTIES (goods)

***Warranty of Merchantability* – Goods provided by vendor under this agreement shall be merchantable. All goods provided under this Contract shall be of the quality and within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications (part number ordered), and shall conform to the affirmations of fact made by the vendor or on the container or label.**

***Warranty of fitness for a particular purpose* – When vendor knows any particular purpose for which the goods are required, and the State is relying on the vendor's skill or judgment to select and furnish suitable goods, there is a warranty that the goods are fit for such purpose.**

***Warranty of title* – Vendor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by vendor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by vendor, under this agreement, shall be delivered free of any rightful claim of any third person.**

2.505 CONTRACTOR WARRANTIES (SERVICES)

The Contract will contain the following customary representations and warranties by the Contractor:

1. **The Contractor will perform all services in accordance with the care and skill ordinarily possessed of a person providing such services in the industry;**

2. **The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services, as mutually agreed upon by the parties;**

3. **The Contractor will use its commercially reasonable best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;**

4. **The Contractor will use its commercially reasonable best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;**

5. **The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;**

6. **The Contractor will perform the services in a manner that complies with all applicable laws and regulations;**

7. **The Contractor has duly authorized the execution, delivery and performance of the Contract;**

8. **The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.**

9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.

10. The Contractor is the lawful owner or licensee of any items ordered under this Contract licensed or sold to the State by Contractor or developed by Contractor under this contract, and/or Contractor has all of the rights necessary to convey to the state the ownership rights or license use, as applicable, of any and all Deliverables.

11. If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items as set forth in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable. All manufacturers' warranties must be assignable to the State.

12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.

13. The Contractor is qualified and registered to transact business in all locations where required.

14. The Contractor has not given, offered to give, nor does Contractor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.

15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the ITB or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor. All written information furnished to the State by or on behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

2.506 STAFF

The State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the State.

The Contractor shall not remove or reassign, without the State's prior written approval any of the Key Personnel until such time as the Key Personnel have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the State may be considered by the State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel must be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

2.507 RESERVED

2.508 EQUIPMENT WARRANTY-RESERVED

2.509 RESERVED

2.6 Breach of Contract

2.601 BREACH DEFINED

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

2.602 NOTICE AND THE RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

2.603 EXCUSABLE FAILURE

1. **Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.**

2. **If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.**

2.7 Remedies

2.701 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.

3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.

4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement,

theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.

5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

2.702 RIGHTS UPON CANCELLATION

Termination Assistance. **If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, Contractor agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the State if the termination is for Contractor's Default pursuant to Section 2.602; otherwise the State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Amendment Labor Rates identified within this Contract agreement.**

2.703 LIQUIDATED DAMAGES-RESERVED

2.704 STOP WORK-RESERVED

2.705 SUSPENSION OF WORK

The Contract Administrator may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

2.8 Changes, Modifications, and Amendments

2.801 APPROVALS

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

2.802 TIME EXTENTIONS

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

2.803 MODIFICATION

Purchasing Operations reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor. **The item(s) may be included on the Contract, only if prior written approval has been granted by Purchasing Operations.**

2.804 AUDIT AND RECORDS UPON MODIFICATION

DEFINITION: <u>records</u> includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Purchasing Operations. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the contractor's records, including computations and projections, related to:

1. **The proposal for modification;**
2. **The discussions conducted on the proposal, including those related to negotiation;**
3. **Pricing of the modification; or**
4. **Performance of the modification.**

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

2.805 CHANGES

(a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:

(1) In the specifications (including drawings and designs);
(2) In the method or manner of performance of the work;
(3) In the Government-furnished facilities, equipment, materials, services, or site; or
(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:

(1) The date, circumstances, and source of the order; and
(2) That the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

FAIRFAX COUNTY
VIRGINIA

DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
12000 GOVERNMENT CENTER PARKWAY, SUITE 427
FAIRFAX, VIRGINIA 22035-0013

www.fairfaxcounty.gov/dpsm

TELEPHONE: (703) 324-3201 FAX: (703) 324-3587 TTY: 1-800-828-1140

OCT 0 7 2005

NOTICE OF AWARD OF CONTRACT

SUBJECT: Homeland Security and Public Safety Equipment and Related Services (US Communities Sponsored Program)

CONTRACT NUMBER: RQ06-814063-10A

COMMODITY CODE: 2312

CONTRACT PERIOD: October 7, 2005 through September 30, 2008

RENEWALS: Two (2) periods of twelve months each

SUPERSEDES CONTRACT: n/a

CONTRACTOR:
A. Hagemeyer, N.A.
3300 W. Montague Ave.
Suite 400B
N. Charleston, SC 29418

VENDOR CODE:
B562281578 03

CONTRACTOR CONTACTS:

TERMS: Net 30

FOB: Destination

PRICES: See Catalog

DPSM CONTRACTUAL CONTACT: Becky McKinney, CPM, CPPB
Phone: (703) 324-3273; Fax: (703) 324-3587
E-Mail: Elizabeth.mckinney@fairfaxcounty.gov

10-11-05
10 NO

SPECIAL INFORMATION AND INSTRUCTIONS FOR COUNTY AGENCIES ONLY:

Those agencies appearing on the Distribution List, who require the items and/or services covered by this contract in a firm-fixed quantity on a specific date, may enter into CASPS (County and Schools Procurement System) a purchase requisition indicating the item/service required, the quantity, and the delivery date. The purchase requisition must be annotated with the contract number indicated on page I. Orders may also be placed via Contractor's secure web portal.

Upon receipt of the purchase requisition, a purchase order will be executed.

Elizabeth A. McKinney, CPM, CPPB
Contract Administrator

CAM/leam

DISTRIBUTION: LIMITED

Contract Administrator -
Buyer 1/Team 1 –Van Fuller
Buyer II/Team 1-Joe Brozena
Police Dept-Financial Resources- Liz Krusynski
Sheriff Dept-Brian Johnston
Fire Dept-Resource Mgmt-Christina Fisher
Council of Governments-Carl Kalish
US Communities-Kevin Juhring, Sam Massie

Finance – Accounts Payable
Assistant Buyer-Javier Iturralde

Police Dept. Special Ops-Bill Gulsby
Sheriff Dept.-Diane Wilt
Fire Dept.-Resource Mgmt.-Steve Clark

10/07/2005 15:23 FAX 002

FAIRFAX COUNTY
VIRGINIA

DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0013

www.co.fairfax.va.us/dpsm

Telephone: (703) 324-3201 Fax: (703) 324-3228 TTY 1-800-828-1140

Memorandum of Negotiations for RFP06-814063-10
Homeland Security and Public Safety Equipment and Related Services

Fairfax County (hereinafter called the County) and Hagemeyer, N.A. (hereinafter called the Contractor) hereby agree to the following in execution of Contract RQ06-814063-10A. The final Contract contains the following terms:

(a) The Request for Proposal, RFP06-814063-10, as issued to include Addendum No. 1

(b) The Contractor's Technical Proposal submitted on July 28, 2005

(c) The Contractor's Business Proposal submitted on July 28, 2005

(d) The Contractor's response dated August 25, 2005 to the County's request for clarifications and the Contractor's response dated September 15, 2005 to the County's request for completion of the U.S. Communities Administrative Agreement.

(e) Hagemeyers commitment letter to the County dated September 30, 2005.

(f) This Memorandum of Negotiations.

(g) County's Purchase Order.

(h) Any subsequent Amendments to this contract, mutually agreed upon in writing between the County and the Contractor.

In the event of conflict, this Memorandum of Negotiations and any subsequent amendments to the Contract shall take precedence.

Accepted by:

Neil Longson, Senior Vice President
Hagemeyer, N.A.

October 7 2005
Date

Cathy A. Muse, CPPO, Director
County Purchasing Agent

Oct. 7, 2005
Date

FAIRFAX COUNTY
VIRGINIA

DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
12000 GOVERNMENT CENTER PARKWAY, SUITE 427
FAIRFAX, VIRGINIA 22035-0013

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OCT 19 2005

REVISED NOTICE OF AWARD OF CONTRACT

SUBJECT: Homeland Security and Public Safety Equipment and Related Services (US Communities Sponsored Program)

CONTRACT NUMBER: RQ06-814063-10A

COMMODITY CODE: 2312

CONTRACT PERIOD: October 7, 2005 through September 30, 2008

RENEWALS: 3 periods of twelve months each

SUPERSEDES CONTRACT: n/a

CONTRACTOR:
A. Hagemeyer, N.A.
3300 W. Montague Ave.
Suite 400B
N. Charleston, SC 29418

VENDOR CODE:
B562281578 03

CONTRACTOR CONTACTS:
Patrick Riordan
Vice President Sales
Government Sales Division
Phone: (888) 745-6486; FAX (843) 745-6831
E-Mail: priordan@hagemeyerna.com

TERMS: Net 30

FOB: Destination

PRICES: See Attached Pricing Structure – Page 3

DPSM CONTRACTUAL CONTACT:
Becky McKinney, CPM, CPPB
Phone: (703) 324-3273; Fax: (703) 324-3587
E-Mail: Elizabeth.mckinney@fairfaxcounty.gov

SPECIAL INFORMATION AND INSTRUCTIONS FOR COUNTY AGENCIES ONLY:

Those agencies appearing on the Distribution List, who require the items and/or services covered by this contract in a firm-fixed quantity on a specific date, may enter into CASPS (County and Schools Procurement System) a purchase requisition indicating the item/service required, the quantity, and the delivery date. The purchase requisition must be annotated with the contract number indicated on page I. Orders may also be placed via Contractor's secure web portal.

Upon receipt of the purchase requisition, a purchase order will be executed.

Cathy A Muse

Cathy A, Muse, CPPO
Director/Purchasing Agent

CAM/eam

DISTRIBUTION: LIMITED
Contract Administrator -
Buyer 1/Team 1 –Van Fuller
Buyer II/Team 1-Joe Brozena
Police Dept-Financial Resources- Liz Krusynski
Fire Dept-Resource Mgmt-Christina Fisher
Council of Governments-Carl Kalish
US Communities-Kevin Juhring, Sam Massie
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Assistant Buyer-Javier Iturralde
Sheriff Dept-Brian Johnston
Police Dept. Special Ops-Bill Gulsby
Sheriff Dept.-Diane Wilt
Fire Dept.-Resource Mgmt.-Steve Clark

RQ 06-814063-10A
Revised Notice of Award of Contract
Page 3 of 3

PRICING STRUCTURE

CATEGORY	DESCRIPTION	DISCOUNT FROM LIST
A	Personal Protective Equipment	39%
B	Explosive Device Mitigation & Remediation	39%
C	CBRNE Search & Rescue Equipment	39%
D	Interoperable Communications Equipment	39%
E	Detection Equipment	39%
F	Decontamination Equipment	39%
G	Physical Security Enhancement Equipment	39%
H	Terrorism Incident Prevention Equipment	39%
I	CBRNE Logistical Support Equipment	39%
J	Medical Supplies & Pharmaceuticals	39%
K	CBRNE Reference Materials	39%
L	All Other Non-Listed Public Safety & Law Enforcement	39%
M	Other Related Services – Technical & Training	5%
	Items not otherwise listed*	39%

For details, please refer to the catalog.

*Items not specifically listed in the catalog may be purchased under this contract at the above noted discount rate.

FAIRFAX COUNTY
V I R G I N I A

DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0013

www.co.fairfax.va.us/dpsm

Telephone: (703) 324-3201 Fax: (703) 324-3228 TTY 1-800-828-1140

July 22, 2005

ADDENDUM NO. 1

TO ALL PROSPECTIVE OFFERORS:

SUBJECT: REQUEST FOR PROPOSAL: RFP06-814063-10

FOR: Homeland Security and Public Safety Equipment and Related Services

DATE AND TIME OF CLOSING: July 28, 2005@2:00 P.M.

As a result of the pre-proposal conference held on July 15, 2005, and subsequent questions received, the subject request for proposal is amended as follows:

1. Reference section 6 B of the RFP (page 7)-Was Attachment L sent as a separate attachment? Is this actually Attachment E? There is no reference to an Attachment L. the attachments are listed as A-G.

2. Do the information copies include both the Technical Proposal and the Business proposal? At this time, we are asking only for copies of the technical proposal to be distributed to those individuals named on Attachment E. These information copies can be in electronic format.

3. If the latter is included how is the bidder afforded protection of proprietary information, i. e. pricing, financials, etc.?
   Protection of trade secrets and proprietary information is clearly described in paragraph 7.0 of the solicitation. Failure to follow those instructions EXACTLY will result in your proposal being available for public inspection. In addition, since the pricing will be available to all state and local government jurisdictions, it would be difficult to declare it proprietary. However, financial statements can be declared proprietary, but must be done in accordance with paragraph 7.0.

4. Reference section 6 C of the RFP (page 8)-Insofar as this RFP is about products, how does this provision apply? Several product categories include reference to services, and some suppliers may include services such as training or grant-development with their responses. There are several instances where services such as installation, training or grant development might apply. Offerors are asked to elaborate on what might be required or suggested in the way of services associated with a particular product.

5. Reference Section 6 E of the RFP (page 8)-Does the requirement for a Business, Professional, and Occupational License apply to a supplier that would be shipping from outside of the Commonwealth of VA?
   The Fairfax County Department of Tax Administration (DTA) makes the determination as to who requires a license. The license is not required at time of proposal submission, but you are required to fill out the application provided with the solicitation and submit it with your response. Fairfax County Government will provide the information to DTA.

RFP06-814063-10
Addendum #1
Page 2

6. Reference Section 6 F of the RFP (page 8)-Is it the intent of Fairfax County to have a forma "bid opening" after the time for submission?
   No.

7. Reference Section 1.0 Pricing (page 9) –How does US Communities envision handling price increases due to the manufacturer's price increases (assuming the bidder is an authorized distributor)?
   Paragraph 16.1 indicates that pricing and discounts are to be held firm for the first twelve months of the contract and then the supplier has the option of changing pricing annually. If an Offeror gives discount pricing, it is assumed that the discount would remain the same regardless of the manufacturer's increase or decrease. Contractors would be required to provide new price lists and catalogs to assist in verifying manufacturer's price changes. Changes in any labor rates would be addressed annually and are tied to the CPI as indicated in paragraph 16.

8. Reference Section 6.0 Key Personnel-Does this provision apply to anyone other that the proposed National Accounts Manager?
   No.

9. Reference Section 15.2 (page 11)-Is it correct assumption that US Communities and Fairfax County expect the provisions of Section 1.0 (page 9) to apply in the event that the decision is made to exercise the option for an additional year after the initial three year period?
   Yes.

10. Reference Section 16.4 (page 12)-Would it be a correct assumption that the requirement for providing INSTALLED pricing does not apply to products for which there is not installation example, gloves, masks, etc.?
    Yes.

11. How should a bidder respond to INSTALLED pricing in the case where the necessary installation effort is dependant on the circumstances of the site, e. g. shelters, etc.?
    It is up to the Offeror to develop a response based on their capabilities and circumstances They could detail the conditions of a "normal" delivery for their organization and identify that any conditions beyond "normal" may be subject to additional charges.

12. Reference Section 18.0 (page 12)-Is a bidder expected to offer a 1 year warranty if the manufacturer standard warranty is less?
    The Offeror should propose products that meet this requirement. If the only product available through them has a warranty of less than one year, the Offeror should note so. This will be considered in the overall evaluation.

13. Reference Section 19.0 (page 12)-Is the bidder expected one FOB price for an item regardless of where an item is to be shipped, example Hawaii or Alaska?
    The Offeror should outline their proposed shipping terms in detail. They may propose additional freight charges for shipment destinations outside the continental US.

14. Is it the intent of this provision that the quoted FOB price apply only to Fairfax County and that the bidder would negotiate separate pricing, reflecting special considerations such as shipping, with other governmental agencies under the auspices of the US Communities Master Agreement?
    No. It is the intent of the program to offer the same pricing and terms to any eligible user with the exception of shipping charges for deliveries beyond the continental US as noted above

15. Is Attachment D-US Communities Administrative Agreement required to be completed along with the RFP or after award is made.
    The Agreement is required to be submitted with the proposal.

16. Do you want price lists and catalogs submitted with our proposal or just our proposal? If yes, do you want them in paper form?
    You should submit a complete hard copy proposal with hard copy price lists and catalogs. At this time, we would also like Offerors to submit one complete proposal in CD format with a certification that it is a true and correct copy of the paper copy submitted.

17. Are Offerors required to provide documentation of authorization from each manufacturer they include in their proposal?
    Offerors are to propose only products for which they are an authorized distributor or dealer. In lieu of authorization letters from manufacturers, Offerors may include a statement certifying that they are an authorized distributor or dealer of all the products and services included in their proposal. If the Offeror's authorization is limited to specific geographic areas in the United States or Canada, those areas must be identified in the proposal. Individual Manufacturer or Distributor Authorization letters must be available on request.

18. In section 3.5 a, it asks for a description of the products to be provided. The bid is asking offerors to make thousands of products available. Do you want descriptions of every product?
    The Pricing structure was purposely kept loose so that potential suppliers could come up with the best way to offer pricing for their company. We are not looking for line by line pricing, but perhaps offer a discount off their commercial price list by category or manufacturer.

All other terms and conditions remain unchanged.

Elizabeth A. McKinney

_____
Cathy A. Muse, CPPO
Director/County Purchasing Agent

THIS ADDENDUM IS ACKNOWLEDGED AND IS CONSIDERED A PART OF THE SUBJECT REQUEST FOR PROPOSAL:

_____ _____
Signature Date

_____
Name of Firm

TWO SIGNED COPIES MUST BE RETURNED PRIOR TO DATE/TIME OF OPENING OR MUST ACCOMPANY PROPOSAL.

U.S. COMMUNITIES

Government Purchasers Saving You Money

Founding Co-Sponsors

MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This agreement is made between certain government agencies that execute a Lead Public Agency Certificate ("Lead Public Agencies") to be appended and made a part hereof and other government agencies ("Participating Public Agencies") that agree to terms and conditions hereof through U.S. Communities registration to be appended and made a part hereof.

RECITALS

WHEREAS, after a competitive bidding and selection process by Lead Public Agencies, a number of Vendors have entered into Master Agreements to provide a variety of goods, products and services based on national volumes (herein "Products");

WHEREAS, Master Agreements are made available by Lead Public Agencies through U.S. Communities and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Lead Public Agency, subject to any applicable local purchasing ordinances and the laws of the State of purchase;

WHEREAS, the parties desire to comply with the requirements and formalities of the Intergovernmental Cooperation Act as may be applicable to the laws of the State of purchase;

WHEREAS, the parties hereto desire to conserve resources and reduce procurement cost;

WHEREAS, the parties hereto desire to improve the efficiency, effectiveness and economy of the procurement of necessary Products;

NOW, THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products.
2. That the procurement of Products subject to this agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules and regulations that govern each party's procurement practices.
3. That the cooperative use of bids obtained by a party to this agreement shall be in accordance with the terms and conditions of the bid, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
4. That the Lead Public Agencies will make available, upon reasonable request and subject to convenience, information which may assist in improving the effectiveness, efficiency and economy of Participating Public Agencies procurement of Products.
5. That a procuring party will make timely payments to the Vendor for Products received in accordance with the terms and conditions of the procurement. Payment for Products and inspections and acceptance of Products ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.
6. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
7. The procuring party shall be responsible for the ordering of Products under this agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring party harmless from any liability that may arise from action or inaction of the procuring party.
8. The exercise of any rights or remedies by the procuring party shall be the exclusive obligation of such procuring party.
9. This agreement shall remain in effect until termination by a party giving 30 days written notice to U.S. Communities at 2033 N. Main Street, Suite 700, Walnut Creek, CA 94596.
10. This agreement shall take effect after execution of the Lead Public Agency Certificate or Participating Public Agency Registration, as applicable.

U.S. COMMUNITIES

Government Purchasers Saving You Money

Founding Co-Sponsors

COUNTY OF FAIRFAX, VIRGINIA
ON BEHALF OF

THE CITY OF CHARLOTTE/MECKLENBURG COUNTY, NORTH CAROLINA AND
U.S. COMMUNITIES PURCHASING & FINANCE AGENCY

COMPETITIVE SOLICITATION

MASTER AGREEMENT

FOR

HOMELAND SECURITY AND PUBLIC SAFETY EQUIPMENT AND RELATED SERVICES

RFP06-814063-10

RFP06-814063-10

MASTER AGREEMENT

FOR

HOMELAND SECURITY AND PUBLIC SAFETY EQUIPMENT AND RELATED SERVICES

A pre-proposal conference will be held on **July 15, 2005** at **10:00 A.M.** in the Fairfax County Government Center, 12000 Government Center Parkway, Conference Room 9 & 10, Fairfax, Virginia 22035. Attendees requiring special services are asked to provide their requirements to the County one-week in advance to allow for accommodation.

Solicitation Package consists of pages 1-47, including attachments A-G.

FAIRFAX COUNTY

DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
12000 GOVERNMENT CENTER PARKWAY, SUITE 427
FAIRFAX, VIRGINIA 22035-0013

www.fairfaxcounty.gov/dpsm

V I R G I N I A TELEPHONE: (703) 324-3201 FAX: (703) 324-3223 TTY: 1-800-828-1140

ISSUE DATE 07/05/05	**REQUEST FOR PROPOSAL NUMBER:** RFP06-814063-10	**FOR:** Homeland Security and Public Safety Equipment and Related Services
DEPARTMENT: FRD/OEM	**DATE/TIME OF CLOSING:** July 28, 2005/ @ 2:00PM	**CONTRACT ADMINISTRATOR:** Becky McKinney 703-324-3273; Email:elizabeth.mckinney@fairfaxcounty.gov

Proposal - In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offe and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, delivered or furnished to designated point within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by Fairfax County the items o services offered and accompanying attachments shall constitute a contract.

NOTE: Fairfax County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

NAME AND ADDRESS OF FIRM:

_____

_____

_____

_____

Telephone/Fax No.: _____ / _____

E-Mail Address: _____

Federal Employer ID No or _____

Federal Social Security No (Sole Proprietor) _____

Prompt Payment Discount: ___% for payment within____days/net ____days

Fairfax Business Prof. & Occupational (BPOL) Tax No _____

By signing this proposal, Offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in Paragraph 64 of the General Conditions and Instructions to Bidders, regarding financial disclosure requirements.

CHECK ONE: ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ CORPORATION

State in which Incorporated: _____

_____ Vendor Legally Authorized Signature

_____ Date

_____ Print Name and Title

_____ Secretary

Sealed proposals subject to terms and conditions of this Request for Proposal, will be received by the Fairfax County Purchasing Agent at 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035 until time/date identified above.

AN EQUAL OPPORTUNITY PURCHASING ORGANIZATION

(DPSM32) (rev 9/04)

1 SCOPE

1.1 REQUIREMENT

County of Fairfax, Virginia (herein "Lead Public Agency") on behalf of County of Mecklenburg, North Carolina, the City of Charlotte, North Carolina and the U.S. Communities' Government Purchasing Alliance (GPA) (Ref. Paragraph 1.7), is soliciting Proposals from qualified companies to enter into a Master Agreement for a complete line of Homeland Security and Public Safety Equipment and related services (herein "Products"). ALL PRODUCTS OFFERED MUST BE NEW, UNUSED, LATEST DESIGN AND TECHNOLOGY AND MOST CURRENT PRODUCT LINES. RFP is subject to Lead Public Agency's General Conditions & Instructions to Bidders, Special Provisions, and Pricing Schedule shown as Attachment A; and the Oregon Addendum shown as Attachment B.

The Supplier(s) must deal directly with any government agency (herein "Participating Public Agency") concerning the placement of orders, issuance of the purchase order, contractual disputes, invoicing, and payment. The County of Fairfax is acting as "Contracting Agent" for the Participating Public Agencies and shall not be held liable for any costs, damages, etc. incurred by any other Participating Public Agency.

The subsequent contract shall be construed to be in accordance with and governed by the laws of the State in which the Participating Public (government) Agency exists. Each Participating Public (government) Agency enters in to a Master Intergovernmental Cooperative Purchasing Agreement (MICPA) (as shown as Attachment IV to the U.S. Communities Administration agreement, itself included herein as Attachment C) that allows the Participating Public Agency to purchase products from the Supplier(s) in accordance with each Participating Public Agency's purchasing policy and procedures.

1.2 GENERAL DEFINITION OF PRODUCTS

It is the intent of this solicitation to allow Offerors to propose the broadest possible selection of the equipment specified in the categories listed below. The following product list was developed from the Department of Homeland Security Office of Domestic Preparedness Fiscal Year 2003 Authorized Equipment List. Offerors are expected to include all products they offer commercially that qualify for Homeland Security Grant Funding and Law Enforcement Terrorism Prevention Program funding. Offerors are not limited to offering products that qualify for grant funding by Federal, State, or other agencies. It is the intent of this RFP and resulting award to provide an expansive catalog of Homeland Security and Public Safety Equipment Products regardless of the payment source employed by the Participating Public Agency.

General Product Categories:

A. Personal Protective Equipment (PPE)
B. Explosive Device Mitigation and Remediation Equipment
C. CBRNE Search & Rescue Equipment
D. Interoperable Communications Equipment
E. Detection Equipment
F. Decontamination Equipment
G. Physical Security Enhancement Equipment
H. Terrorism Incident Prevention Equipment
I. CBRNE Logistical Support Equipment
J. Medical Supplies
K. CBRNE Reference Materials
L. Related Services
M. Other Non-listed Public Safety, Law Enforcement and Fire Equipment

BY WAY OF EXAMPLE ONLY AND WITHOUT THE INTENT TO LIMIT THE BROAD CATEGORY OF HOMELAND SECURITY AND PUBLIC SAFETY EQUIPMENT PRODUCTS AND SERVICES THAT MIGHT BE AVAILABLE FROM POTENTIAL OFFERORS, A MORE DETAILED LISTING OF THE ABOVE REFERENCED CATEGORIES IS SHOWN ON ATTACHMENT F HERETO.

1.3 OBJECTIVES

The RFP is intended to achieve the following objectives:

A. Provide a comprehensive competitively solicited Master Agreement offering Products and Services to government agencies nationwide;
B. Establish the Master Agreement as Supplier's primary offering to local government agencies nationwide;
C. Achieve cost savings for Suppliers and government agencies through a single bid process that eliminates the need for multiple government bids and multiple responses by Suppliers;
D. Combine the volumes of government agencies nationwide to achieve cost effective pricing; and
E. Reduce the administrative and overhead costs of Suppliers and government agencies through state of the art ordering and delivery systems.

These objectives do not preempt Participating Public Agencies from using other contract vehicles or competitive processes as required by law.

1.4 PARTICIPATING PUBLIC AGENCY MODEL

U.S. Communities has employed the Participating Public Agency Model very successfully with a variety of national suppliers, all of whom are listed at www.uscommunities.org. Fairfax County, Virginia, Allegheny County, PA, Miami-Dade County, FL, Wichita Public Schools, KS, Harford County Public Schools, MD, City of Charlotte/Mecklenburg County, NC and Los Angeles County, California, have served as Lead Public Agencies, signing Master Agreements. Participating Public Agencies "piggy back" on the competitively bid Master Agreement. Suppliers comply with the state and local laws, rules and regulations in each state and locality where product is provided. Suppliers offer the Master Agreement as their primary contract with local government agencies nationwide. The program currently does business with over 8,000 Participating Public Agencies under the Master Agreements.

1.5 ESTIMATED VOLUME

The estimated dollar volume of Products purchased under the proposed Master Agreement is $100 Million, annually, based on the anticipated volume of the Lead Public Agency and a sample of U.S. Communities Advisory Board members and the existing program. While there is no minimum quantity of products to be purchased under the proposed Master Agreement, Fairfax County, Mecklenburg County, the City of Charlotte and the U.S. Communities Advisory Board Members are committed to using the Master Agreement and promoting the Master Agreement among other public agencies nationwide.

1.6 MULTIPLE AWARDS

Multiple awards may be made as a result of this RFP. Multiple Awards will ensure that any ensuing contracts will allow U.S. Communities to fulfill current and future requirements of the diverse and large number of Participating Public Agencies. The actual utilization of any contract will be at the sole discretion of the Participating Public Agencies. Participating Public Agencies may buy directly from successful offerors without the need for further solicitation.

1.7 U.S. COMMUNITIES

U.S. Communities Purchasing & Finance Agency (U.S. Communities) is a non-profit public benefit corporation established by government as an "instrumentality" of government to assist public agencies nationwide reduce the cost of purchased goods and improve the administrative effectiveness of the purchasing process for Suppliers and public agencies alike. U.S. Communities is jointly sponsored by the National Institute of Governmental Purchasing (NIGP), the National Association of Counties (NACo), the National League of Cities (NLC), the Association of School Business Officials, International (ASBO) and the United States Conference of Mayors (USCM). U.S. Communities has a multi-state Advisory Board consisting of representatives from the following public agencies and associations:

ADVISORY BOARD

Agency	*Agency*
Allegheny County, PA	Hillsborough Schools, FL
Charlotte/Mecklenburg, NC	Houston, TX
Cobb County, GA	Los Angeles County, CA
Columbus, OH	Maricopa County, AZ
Dallas County, TX	Miami-Dade County/Public Health Trust, FL
Davis Schools, CA	San Antonio, TX
Denver, CO	San Diego County, CA
Detroit Public Schools, MI	Seattle, WA
Fairfax County, VA	Wichita Public Schools, KS
Harford County Public Schools, MD	
Hennepin County, MN	

GOVERNMENT PURCHASING ALLIANCE *(GPA)*

The primary program offered through U.S. Communities is the GPA. Designed in cooperation with the Advisory Board, GPA:

- ***Pools the purchasing power of public agencies nationwide;***
- ***Achieves bulk volume discounts on behalf of public agencies nationwide; and***
- ***Provides a national purchasing forum for public agencies nationwide.***

Suppliers offering products to public agencies through U.S. Communities also benefit through:

- ***A single competitively bid contract offering a broad range of products to multiple public agencies nationwide;***
- ***A reduction of the administrative, legal and sales overhead associated with responding to multiple bids from public agencies nationwide; and***
- ***Ease of access to public agencies nationwide through promotional efforts of NIGP, NLC, NACo, ASBO, USCM and Advisory Board Members.***

All contracts offered through U.S. Communities are competitively bid by a lead public agency and may be accessed by any other public agency that has the authority to purchase from another public agency's contracts.

MARKETING SUPPORT & ADMINISTRATIVE FEES

U. S. Communities provides marketing support for Supplier's products through its major national sponsors, the National League of Cities, the National Association of Counties (NACo), the National Institute for Governmental Purchasing (NIGP), the Association of School Business Officials, International (ASBO) and the U.S. Conference of Mayors (USCM). In addition, the program is sponsored and marketed by a network of State Associations of Counties, Schools and Municipal Leagues. U.S. Communities and the sponsors provide administrative and marketing personnel that directly promote the U.S. Communities Suppliers to Participating Public Agencies through public agency meetings, direct mail, national publications, annual meetings and a network of Local Government and State Associations. U.S. Communities provides Suppliers government sales training and a host of online marketing and sales management tools to effectively increase sales through U.S. Communities. Participating Suppliers are required to pay an administrative fee based on a minimum of 1% of actual sales under the Master Agreement. The administrative fees offset the costs of governance, lead agencies, marketing and administration of U.S. Communities. Successful

Supplier(s) will be required to execute the U.S. Communities Administrative Agreement (Attachment D).

1.8 SUPPLIER COMMITMENTS

Each supplier is required to make three basic commitments to insure the overall success of the national program:

A. Corporate Commitment - A commitment that U.S. Communities has the support of senior management, and that U.S. Communities is the primary offering to state and local government agencies nationwide. The supplier shall make its existing local public agency clients aware of its U.S. Communities contract and upon the state or local public agency's request, such agency will be transitioned to the supplier's U.S. Communities contract;
B. Pricing Commitment - A commitment that U.S. Communities pricing is the lowest available pricing (net to buyer) to state and local agencies nationwide and a further commitment that, if a state or local agency is eligible for lower pricing through a state, regional or local contract, the supplier will match the pricing under U.S. Communities.
C. Sales Commitment - A commitment that the supplier will aggressively market U.S. Communities nationwide and that the sales force will be trained, engaged and committed to offering U.S. Communities to state and local agencies nationwide with a further commitment that all U.S. Communities sales be accurately and timely reported to the U.S. Communities program office

2 SUPPLIER QUALIFICATIONS

In addition to the Supplier commitments above, only Suppliers meeting the following minimum qualifications should submit proposals:

A. A strong national presence easily recognized by government agencies nationwide;
B. A national sales force easily accessible by government agencies nationwide;
C. A national distribution network having capacity to deliver Products nationwide, free of charge, in a timely manner;
D. A full range of Products to meet varying requirements of government agencies;
E. Demonstrated market with bulk purchasing power, capacity and commitment to guarantee lowest government pricing.
F. Existing capacity to provide toll-free telephone and state of the art electronic, facsimile and internet ordering and billing;
G. A support system to provide assistance to government agencies nationwide.
H. The abiltity to fully implement all necessary activities to effectively promote the program nationally. The following steps are necessary for a supplier to implement a new contract. Please complete the following table with proposed completion dates for the implementation steps. This is a component of the evaluation and must be returned with your proposal:

Implementation Steps	Expected Date of Completion	Proposed Date of Completion
1. Administration Agreement Signed	Returned with Proposal	
2. First Conference Call	One Week after Award	
3. Supplier Login Established	One Week after Award	
4. Initial Sr. Management Meeting	Two Weeks after Award	
5. Initial National Account Manager and Staff Training Meeting	Two Weeks after Award	
6. Review of Top 10 Existing Local Government Contracts	Two Weeks after Award	
7. Program Contact Requirements		
– Supplier Contacts Communicated to Staff	Two Weeks after Award	
– Dedicated Email	Two Weeks after Award	
– Dedicated Toll Free Number	Two Weeks after Award	

– Dedicated Fax No.	Two Weeks after Award	
8. Initial Marketing Plan	Three Weeks after Award	
9. Lead Referral Training	Three Weeks after Award	
10. Admin Fee and report training	Three Weeks after Award	
11. Web Development		
– Initiate IT contact	Two Weeks after Award	
– Web site construction	Three Weeks after Award	
– Web site final edit	Four Weeks after Award	
12. Sales Training		
– Top Ten metro areas	Four Weeks after Award	
– Supplier Login Training - remote webex for all sales	Two Weeks after Award	
– Training Plan for the other metros	Eight Weeks after Award	

3 REQUEST FOR PROPOSAL

A. TECHNICAL PROPOSAL

Please submit a proposal to supply Products that includes the following information:

3.1 Commitment and Qualification Statement

Please address each of the Commitments and Qualifications shown in Sections 1 and 2 above and provide a summary not exceeding 2 pages demonstrating that your company is willing to make the required commitments and meet each of the qualifications.

3.2 Company

A. A brief history and description of your company;
B. Total number and location of sales persons employed by your company;
C. Number and location of distribution outlets (if applicable);
D. Number and location of support centers (if applicable);
E. Annual sales for 2002, 2003 and 2004.
F. Submit your current Federal Identification Number and latest Dun & Bradstreet report.

3.3 Distribution

A. Describe how your company proposes to distribute the Products nationwide.
B. Identify all other companies that will be involved in processing, handling or shipping the Product to the end user;
C. State the effectiveness of the proposed distribution in providing the lowest cost to the end user.
D. Provide the number, size and location of your company's distribution facilities, warehouses and retail network as applicable;
E. State the company's standard delivery time and any options, including delivery costs for expediting delivery, and return policies.

3.4 Marketing

A. Outline your company's plan for marketing the Products to state and local government agencies nationwide
B. Explain how your company will educate its national sales force about the Master Agreement.
C. Explain how your company will market and transition the Master Agreement into the primary offering to Participating Public Agencies
D. Explain how your company plans to market the Master Agreement to existing government

customers and transition these customers to the Master Agreement.

E. Explain how your company proposes to resolve any complaints, issues or challenges.

F. Please submit the resume' of the person your company proposes to serve as the National Accounts Manager.

3.5 Products

A. Provide a description of the Products to be provided by the major product category set forth in Sections 1.2A through 1.2N above. THE PRIMARY OBJECTIVE IS FOR EACH SUPPLIER TO PROVIDE ITS ENTIRE CATALOG OF PRODUCT SO THAT PARTICIPATING PUBLIC AGENCIES MAY ORDER A BROAD RANGE OF PRODUCT AS APPORPRIATE FOR THEIR NEEDS.

B. Provide a description of the services to be provided by major service category set forth in Section 1.2M above.

C. Describe any special programs that your company offers that will improve customers' ability to

D. access Products, such as ship-from-stock availability, on-time delivery or other innovative strategies.

E. State backorder policy. Do you require Agency to reorder if item is backordered?

F. Describe the capacity of your company to broaden and keep the product offerings current and ensure that latest equipment, standards and technology for Homeland Security and Public Safety Equipment are available.

3.6 Administration

A. Describe your company's capacity to employ EDI, telephone, facsimile, electronic, retail and internet ordering with a specific proposal for processing orders under the Master Agreement. State which forms of ordering allow the use of a procurement card and the accepted banking (credit card) affiliation.

B. Describe your company's internal management system for processing orders from point of customer contact through delivery and billing. Please state:

1. If your internet ordering system is OBI (open buying on the internet) compatible;
2. If you use a single system or platform for all phases of the ordering, processing, delivery and billing.

C. Describe the state of ecommerce within your company and detail how Participating Public Agencies can benefit from your approach.

D. Describe your company's implementation and success with existing cooperative purchasing programs, if any, and provide the entity's name(s), contact person(s) and contact information as reference(s).

E. Describe the capacity of your company to report quarterly sales under the Master Agreement by Participating Public Agency within each State.

F. Describe the capacity of your company to provide management reports, i.e. commodity histories, procurement card histories, etc. for each Participating Public Agency.

G. Describe the capacity of your company to meet Minority and Women Business Enterprises (MWBE) and other local purchasing preferences which will vary among Participating Public Agencies.

H. Detail any proposal that your company may have to increase the base Administrative Fee of 1% based on volume of sales or other criteria that improve the profitability of the program to your company, such as internet ordering penetration.

I. Please provide any suggested improvements and alternatives for doing business with your company that will make this arrangement more cost effective for your company and Participating Public Agencies.

B. BUSINESS PROPOSAL

3.7 Pricing

A. Provide the pricing using a fixed percentage or margin from a standard index or other objectively

verifiable criteria, including the 1% Administrative Fee, for each product category in Sections 1.2Athrough 1.2N above.

B. Provide the reference to the standard index or other objective criteria used to determine pricing of each Product category and state why this the most advantageous to Participating Public Agencies
C. State if the quoted price for each Product category is the most favorable pricing offered by your company to State and local agencies nationwide.
D. Propose a plan to adjust pricing as market conditions change.
E. Detail any additional pricing incentives that may be available such as for large volume purchase and internet ordering by Participating Public Agencies.

4 EVALUATION OF PROPOSALS

Proposals will be evaluated by the Lead Public Agency in compliance with public bidding requirements. U.S. Communities Advisory Board members will be requested to assist the Lead Public Agency in evaluating proposals. The companies with the best value and most competitive proposals will be invited for interviews and a further discussion of the proposal content. The overall ranking of proposals is based on the following:

A. TECHNICAL PROPOSAL

1. Company (Ref. Paragraph 3.2 above)
2. Distribution (Ref. Paragraph 3.3 above)
3. Marketing (Ref. Paragraph 3.4 above)
4. Products (Ref. Paragraph 3.5 above)
5. Administration (Ref. Paragraph 3.6 above)

B. BUSINESS PROPOSAL

1. Pricing (Ref. Attachment A Pricing Schedule)

5 REQUEST FOR PROPOSAL SCHEDULE

The following schedule will be used for the Request for Proposal:

Event	Date	Time
June 30, 2005	RFP Distributed	N/A
July 15, 2005	Pre-Proposal Conference	10:00 a.m.
July 28, 2005	Proposals are due	2:00 p.m.
Aug 10-11, 2005	Evaluate and Rank Proposals	N/A
Aug 17-18, 2005	Interview of Companies with Most Competitive Proposals	10:00 a.m.
Aug 25, 2005	Award Contract to the highest ranked Offeror	N/A

6 SUBMISSION OF PROPOSAL:

A. One (1) orig inal and ten (10) copies of the technical proposal and one (1) original and ten (10) copies of the business proposal (duly marked) are due at the following address:

Fairfax County Government
Department of Purchasing and Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035.

Proposals must be received prior to the date and time established for receipt of proposals. Proposals received after the date and time established for receipt of proposals will not be considered

B. An Information Copy should be sent to the attached distribution list on Attachment E.

C. It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the Request for Proposal. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the evaluation process. The RFP forms must be completed legibly and in their entirety; and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

D. Unnecessarily elaborate brochures of other presentations beyond that sufficient to present a complete and effective proposal is not desired. Elaborate artwork, expensive paper, bindings, visual and other presentation aids are not required. The County encourages Offerors to use recycled paper.

E. Each original and set of the ten (10) copies of the proposal shall consist of:

FAIRFAX COUNTY REQUIREMENTS

1) Cover sheet, duly signed with the corporate seal impressed, if applicable.
2) Technical Proposal (Section 3.1 through 3.6 of the Request for Proposal)
3) Business Proposal (Pricing Schedule on Attachment A),
4) Business, Professional and Occupational License
5) Fairfax County Requirements (Attachment A)

F. By executing the DPSM32, Offeror acknowledges that the Offeror has read this Request for Proposal, understand it, and agrees to be bound by its terms and conditions. Proposals may be submitted by mail or delivered in person. All proposals must be received by the receptionist at the County of Fairfax, Department of Purchasing and Supply Management (Ref: Paragraph 6.A) prior to the date and time specified.

ATTACHMENT A
RFP06-814063-10

SPECIAL PROVISIONS – FAIRFAX COUNTY

1.0 PRICING:

1.1. The subsequent contract will be a discount from the manufacturer's Price List or Vendor's Retail Price Sheet. The discount will remain firm and will include all charges that may be incurred in fulfilling requirement(s) for the duration of this contract. Changes in cost for subsequent yearly contract renewals will be based on the Consumer Price Index (CPI-U), Table 10, Selected Local Areas, Washington, DCMD- VA.

1.2. Award will be determined by applying Offeror's discount to the prices listed on their manufacturer's price lists or Vendor's retail price sheets. Offerors must clearly mark the item and column to which the discount is applied for each item bid. The Selection Advisory Committee (SAC) must be able to verify each Offeror's price by applying the discount to Offeror's List Price.

1.3. Price decreases shall be made in accordance with paragraph 43 of the General Conditions & Instructions to Bidders.

2.0 REQUIRED SUBMITTALS

Each Offeror responding to this Request for Proposal must supply all the documentation required in the RFP. An Offeror's failure to provide the documentation with the Offeror's response to the RFP will result in the disqualification of the Offeror's proposal.

3.0 LATE PROPOSALS:

Proposals received in the Office of the County Purchasing Agent after the date and time prescribed shall not be considered for contract award and shall be returned to the offeror.

4.0 PERIOD THAT PROPOSALS REMAIN VALID:

Each Offeror agrees that proposals will remain firm for a period of one-hundred and twenty days (120) calendar days after the date specified for receipt of proposals.

5.0 CONTACT FOR CONTRACTUAL AND TECHNICAL MATTERS:

The person to contact concerning contractual and technical matters pertaining to this Request for Proposal is:

Elizabeth McKinney, Contract Administrator
Department of Purchasing and Supply Management
Telephone: (703) 324-3273
E-Mail: Elizabeth.McKinney@fairfaxcounty.gov

All inquiries outside the Selection Advisory Committee (SAC) membership should be referred to the Contract Administrator. SAC members will not consider information other than the materials provided by the Contract Administrator, e.g., proposals. ***If a SAC member is approached by anyone outside the SAC who may have a material interest in this procurement, it will be immediately reported to the Contract Administrator.***

6.0 KEY PERSONNEL:

The personnel named in the technical proposal will remain responsible throughout the period of this contract. No diversion or replacement may be made without submission of a resume of the proposed replacement with final approval being granted by the County Purchasing Agent.

7.0 TRADE SECRETS/ PROPRIETARY INFORMATION:

Trade secrets or proprietary information submitted by an offeror in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of this section prior to or upon submission of the data or other materials, and **must identify the data or other materials to be protected and state the reasons why protection is necessary.** Disposition of material after award(s) is/are made should be stated by the offeror.

8.0 SUBCONTRACTING:

8.1. If one or more subcontractors are required, the contractor is encouraged to utilize small, minority-owned, and women-owned business enterprises. A listing of registered firms by relevant trades or specialties is included as Appendix A to this solicitation package. An additional list of small, minority-owned and woman-owned Fairfax County businesses may be obtained from the Economic Development Authority Web site www.fairfaxcountyeda.org.

SPECIAL PROVISIONS – FAIRFAX COUNTY

8.2. Upon award of contract, the prime contractor agrees to make maximum effort to provide the names and addresses of each subcontractor, that subcontractor's status as defined by Fairfax County, as a small, minority-owned and/or woman-owned business, and the type and dollar value of the subcontracted goods/services provided.

9.0 PRE-PROPOSAL CONFERENCE:

9.1. A pre-proposal conference will be held on July 15, 2005 at 10:00 A.M. in the Fairfax County Government Center, 12000 Government Center Parkway, Rooms 9 & 10, Fairfax, Virginia 22035. Attendees requiring special services are asked to provide their requirements to the County one-week in advance to allow for accommodation.

9.2. The purpose of the pre-proposal conference is to give potential Offerors an opportunity to ask questions and to obtain clarification about any aspect of this Request for Proposal.

10.0 BASIS FOR AWARD:

10.1. A Selection Advisory Committee has been established to review and evaluate all proposals submitted in response to this Request for Proposal. The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided with the proposal, and the evaluation criteria listed below. Based upon this review, the business proposals of the highest rated offeror(s) will then be reviewed.

10.2. Based on the results of the preliminary evaluation, the highest rated offeror(s) may be invited by the County Purchasing Agent to make oral presentations to the Selection Advisory Committee. This committee will then conduct a final evaluation of the proposals. The Selection Advisory Committee shall then negotiate a contract with the highest rated offeror. At this time, the offeror and the Selection Advisory Committee may negotiate any changes desired in the offer if deemed in the best interest of Fairfax County. If a satisfactory contract cannot be negotiated with the highest qualified offeror, negotiations will be formally terminated. Negotiations shall then be undertaken with the second rated offeror and so on. The Committee will make appropriate recommendations to the County Executive and Board of Supervisors, if appropriate, prior to actual award of contract.

10.3. PROPOSAL EVALUATION CRITERIA

10.3.a. (Ref. Paragraph 3 and 4 of Introduction and Background to include cost).

10.4. Fairfax County reserves the right to make on-site visitations to assess the capabilities of individual offerors and to contact references provided with the proposal.

10.5. The County Purchasing Agent may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.

10.6. Offerors are advised that, in the event of receipt of an adequate number of proposals, which, in the opinion of the County Purchasing Agent, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Hence, proposals should be submitted initially on the most complete and favorable terms from a technical standpoint which offerors are capable of submitting to the County. Should proposals submitted require additional clarification and/or supplementary information, offerors should be prepared to submit such additional clarification and/or supplementary information, in a timely manner, when so requested.

10.7. Proposals which, after discussion and submission of additional clarification and/or supplementary information, are determined to meet the specifications of this Request for Proposal will be classified as "acceptable". Proposals found not to be acceptable will be classified as "unacceptable" and no further discussion concerning same will be conducted.

10.8. Offerors other than a manufacturer must provide a letter of certification from manufacturer's naming them as authorized resellers/distributors of their products. This information must also include any specific products and/or services the manufacturer does not allow the offeror to provide. Failure to provide a letter of certification shall be cause for rejection of bid.

11.0 SAMPLES:

11.1. The County Purchasing Agent reserves the right to require an offeror to furnish samples of any item on which he submits a proposal, within fifteen (15) working days or less after the request is made, unless otherwise specified below.

11.2. Samples may be evaluated to determine compliance with all major characteristics of the brand name indicated. Failure of samples to conform to all such characteristics shall cause rejection of the proposal.

SPECIAL PROVISIONS – FAIRFAX COUNTY

11.3. Failure to submit the requested sample shall be just cause for eliminating the offeror from further consideration for award.

11.4. Samples will be returned at the offeror's expense with no pecuniary liability to be incurred by the County of Fairfax for their loss or damage.

11.5. Once the offeror is requested to pick up a sample, he must do so within 30 days. Failure to pick up sample will revert the sample to surplus County property and the County will dispose of it at the convenience of the County.

12.0 VOLUME PURCHASE DISCOUNTS:

The County or any participating jurisdiction may from time to time have the need for a large individual spot purchase, warranting special pricing. Competitive bidding procedures with the contractors shall be permitted in these cases. $2.5 million has been designated as the threshold for large individual spot purchases.

13.0 ORDER OF PRECEDENCE:

In the event of conflict, the Acceptance Agreement (DPSM32) and the Special Provisions of this contract shall take precedence over the General Conditions and Instructions to offerors, included herein.

14.0 PURCHASE ORDER:

14.1. A purchase order will be issued as required throughout the period of this contract and will become an integral part of the resulting contract. The purchase order indicates that sufficient funds have been obligated as required by Title 15 or the Code of the Commonwealth of Virginia, and assures distribution of the necessary receiving reports.

14.2. The purchase order does not supersede any provisions of the resulting contract. Performance time and dates are determined solely by the contract and any modification thereto.

14.3. Services are not to begin until receipt of the purchase order and/or other notification by the County Purchasing Agent to proceed.

14.4. As an alternate purchase method, orders may be placed using a valid Fairfax County or Fairfax County Public Schools credit card. It is anticipated that participating contractors will accept credit card orders unless otherwise noted on the proposal. **Please indicate in your proposal if Credit Card orders will be accepted.**

15.0 CONTRACT COMPLETION AND RENEWAL:

15.1. The initial contract will begin on date of award and terminate, three (3) years from date of award.

15.2. Automatic contract renewals are prohibited. Contract renewals must be authorized by and coordinated through the County's Purchasing Department. The initial term of this contract is for a three-(3) year period. The County reserves the right to renew the contract for three (3) additional years, one (1) year at a time.

15.3. Any contract awarded pursuant to this Request for Proposal will be conditioned upon an annual appropriation made by the Fairfax County Board of Supervisors of funds sufficient to pay compensation due the successful Offeror under the contract. The contract will provide that if such an appropriation is not made in any fiscal year, and the County lacks funds from other sources to pay the compensation due under the contract, the County will be entitled, at the beginning of or during such fiscal year, to terminate the contract. In that event, the County will not be obligated to make any payments under the contract beyond the amount properly appropriated for contract payments in the immediate prior fiscal year. The County will provide the successful Offeror with written notice of contract termination due to the non-appropriation of funds at least thirty (30) calendar days before the effective date of the termination. However, the County's failure to provide such notice will not extend the contract into a fiscal year in which funds for contract payments have not been appropriated.

16.0 PRICES AND PRICE ADJUSTMENT:

16.1. Prices/discounts shall be F.O.B destination and shall include all charges that may be imposed in fulfilling the terms of this contract. Prices/discounts shall remain firm for the twelve (12) month period.

16.2. It is the vendor's responsibility to provide the County or PPA member with an up-to-date price list for the duration of this contract.

SPECIAL PROVISIONS – FAIRFAX COUNTY

16.3. Prices will be discounted from the manufacturer's most current price list on file with Fairfax County. Copies of the relevant pricing lists must be included in the proposal. Failure to do so may be caused for disqualification of the proposal.

16.4. For Part 2 (Freestanding) of the pricing schedule, discounts from the manufacturer's price list will be quoted on the basis of:

- INSTALLED: All deliveries shall be inside delivery to include uncrating, assembly, installation, if required, and removal of all debris from the premises.
- DOOR DELIVERY: All deliveries shall be inside door delivery only. The County expects this to include inside-the-door delivery to office buildings and warehouse loading docks.

17.0 LITERATURE/CATALOG REQUIREMENT:

The successful offeror will be required to furnish and/or update the following 15 days after notification of award:

- Price Lists
- Catalogs

The above materials are to be furnished to the following locations:
1 Copy County of Fairfax
Department of Purchasing & Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0014
Attention: Elizabeth McKinney
1 Copy County of Fairfax
TO_BE_DETERMINED Management Division
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035-0011
and to such other locations as requested from time to time.

18.0 WARRANTIES:

All items must have a minimum of one (1) year warranty period from the date of delivery or installation date, if installed, to include parts labor and all return delivery cost.

19.0 DELIVERY:

19.1. Deliveries will be made to Fairfax County and other PPA locations typically between the hours of 8:30 a.m. and 3:30 p.m. on regular business days unless other arrangements have been made. Delivery location shall be stated on each purchase order issued.

19.2. The vendor will ensure that all items are delivered assembled, or assembled by vendor on site. Only minor assemblies will be performed by the ordering jurisdiction personnel. The vendor will assure that all items are packed in accordance with prevailing commercial practices and delivered in the first class condition.

19.3. When the purchase order calls for delivery to a specific location (other than door delivery) the vendor will deliver in accordance with the delivery instructions on the purchase order and shall perform inside delivery, assembly, set in place in proper location, make ready for use and remove all debris.

19.4. The vendor shall authorize immediate replacement of any item that has been damaged in transit.

20.0 DELIVERY FAILURE:

Offerors are CAUTIONED to consider carefully the delivery time they indicate for each item, as they will be required to adhere to that delivery time. Offerors are directed to Paragraph 37 of the General Conditions and Instructions to Bidders.

21.0 SHIPPING AND MARKING:

21.1. The Contractor will be required to mark all shipments with the purchase order number clearly visible on the exterior of each container. A packing slip must be furnished with each shipment, listing, in addition to the Contractor's stock number and description, the purchase order number, the purchase order item number, the quantity order, the quantity shipped, and the quantity back ordered.

SPECIAL PROVISIONS – FAIRFAX COUNTY

21.2. The Contractor shall ensure that all items that are "drop-shipped" are properly marked as outlined in Paragraph 22.1.

21.3. Invoices and all related written materials pertaining to each delivery must show the purchase order number, the purchase order itemnumber, and the item number shown on the contract.

22.0 INSURANCE:

22.1. The successful Offeror will be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith whether owned by the successful Offeror or by the County. The successful Offeror assumes all risks of direct and indirect damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract, or in connection in any way whatsoever with the contracted work.

22.2. The successful Offeror shall, during the continuance of all work under the Contract provide the following:

22.2.a. Maintain statutory Worker's Compensation and Employer's Liability insurance in limits of not less than $100,000 to protect the Successful Offeror from any liability or damages for any injuries (including death and disability) to any and all of its employees, volunteers, or subcontractors Offerors, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia, or which may be hereinafter enacted.

22.2.b. The successful Offeror agrees to maintain Comprehensive General Liability insurance in the amount of $1,000,000 per occurrence, to protect the successful Offeror, its subcontractors Offerors, and the interest of the County, against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in Connection with contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverages for explosion, collapse, and underground hazards, where required.

22.2.c. The successful Offeror agrees to maintain owned, non-owned, and hired Automobile Liability insurance, in the amount of $1,000,000 per occurrence, including property damage, covering all owned, non-owned borrowed, leased, or rented vehicles operated by the s uccessful Offeror. In addition, all mobile equipment used by the successful Offeror in connection with the contracted work, will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy.

22.2.d. The successful Offeror agrees to maintain insurance in the amount of $1,000,000 to cover each individual professional staff.

22.2.e. The successful Offeror agrees to maintain liability insurance in the amount of $1,000,000 to cover its operations.

22.2.f. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

22.2.g. The successful Offeror agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A: VI. The only exceptions to this are insurers of the London Syndicate and other recognized British and European insurers who are not rated by Best Guide.

22.2.h. **Hold-harmless and Indemnification:** Article 63 (Page 7) of the General Conditions and Instructions to Bidders shall apply.

22.2.i. The successful Offeror will provide an original, signed Certificate of Insurance and such endorsements as prescribed herein, and shall have it filed with the County Purchasing Agent/Risk Manager before any work is started.

22.2.j. If the successful Offeror delivers services from a County-leased facility, the successful Offeror is required to carry personal property insurance on all equipment installed and maintained on the premises.

22.3. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty-five day written notice to the County Purchasing Agent/Risk Manager. The successful Offeror shall furnish a new certificate prior to any change or cancellation date. The failure of the successful Offeror to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

SPECIAL PROVISIONS – FAIRFAX COUNTY

22.4. Precaution shall be exercised at all times for the protection of persons (including employees) and property.

22.5. The County of Fairfax and its employees and officers shall be named as an additional insured in the Automobile, General Liability and Professional Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage is primary to all other coverage the County may possess.

22.6. If an "ACORD" Insurance Certificate form is used by the Successful Offeror's insurance agent, the words, "endeavor to and "... but failure to mail such notice shall impose no obligation or liability of any kind upon the company: in the "Cancellation" paragraph of the form shall be deleted.

23.0 DATA SOURCES:

The County will provide the successful Offeror all available data possessed by the County that relates to this contract. However, the successful Offeror is responsible for all costs for acquiring other data or processing, analyzing or evaluating County data.

24.0 SAFEGUARDS OF INFORMATION:

Unless approved in writing by the County Purchasing Agent, the successful Offeror may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the successful Offeror under the final contract.

25.0 ACCESS TO AND INSPECTION OF WORK:

The Fairfax County Purchasing Agent and using agencies will, at all times, have access to the work being performed under this contract wherever it may be in progress or preparation.

26.0 DELAYS AND SUSPENSIONS:

26.1. The successful Offeror must give the County Purchasing Agent written notice if Fairfax County fails to provide information or services, which are required for contract completion by the successful Offeror. If, after giving the County Purchasing Agent written notice, the successful Offeror elects to stop work because data or services are not supplied by the County, the County will extend the successful Offeror's time of completion by a period of time reasonably suited for completion of work.

26.2. The County will pay the successful Offeror for all work completed to the date of suspension plus all the successful Offeror's cost related to the delay, omission or any consequent work stoppage by the successful Offeror and its personnel. The successful Offeror may continue its work on the other phases of the project with an appropriate extension of time of performance upon delivery of the data or services to be provided by Fairfax County. If the successful Offeror decides to proceed without the data and services that was to be provided by the County, any error or omission of the successful Offeror that resulted from the County's omission will not constitute default by the successful Offeror.

27.0 CHANGES:

27.1. Fairfax County may, at any time, by written order, require changes in the services to be performed by the successful Offeror. If such changes cause an increase or decrease in the successful Offerors cost of, or time required for, performance of any services under this contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. The County Purchasing Agent must approve all work, which is beyond the scope of this Request for Proposal.

27.2. No services for which an additional cost or fee will be charged by the successful Offeror shall be furnished without the prior written authorization of the Fairfax County Purchasing Agent.

28.0 ADDITIONS/DELETIONS:

The County reserves the right to add similar item/services or delete items/services specified in the subsequent contract as requirements change during the period of the contract. Prices and/or discounts for items/services to be added to the contract will be mutually agreed to by Fairfax County and the Contractor. A contract amendment will be issued for each addition or deletion.

29.0 PROJECT AUDITS:

29.1. The contractor shall maintain books, records and documents of all costs and data in support of the services provided. Fairfax County or its authorized representative shall have the right to audit the books, records and documents of the Contractor under the following conditions:

SPECIAL PROVISIONS – FAIRFAX COUNTY

29.1.a. If the contract is terminated for any reason in accordance with the provisions of these contract documents in order to arrive at equitable termination costs;

29.1.b. In the event of a disagreement between the Contractor and the County on the amount due the Contractor under the terms of this contract;

29.1.c. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Contractor's efficiency or effectiveness under this contract; and,

29.1.d. If it becomes necessary to determine the County's rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor, which may result in a charge against the County.

29.2. These provisions for an audit shall give Fairfax County unlimited access during normal working hours to the Contractor's books and records under the conditions stated above.

29.3. Unless otherwise provided by applicable statute, the Contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to Fairfax County for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor but without direct charge to the County, all its books, records documents and other evidence bearing on the costs and expenses of the services relating to the work hereunder.

29.4. Fairfax County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein above. The Contractor shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it and they shall require same to be inserted by all lower tier subcontractors in their subcontracts, for any portion of the work. Should the Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure Fairfax County's rights hereunder, the Contractor shall be liable to Fairfax County for all reasonable costs, expenses and attorney's fees which Fairfax County may have to incur in order to obtain an audit or inspection of or the restoration of records which would have otherwise been available to Fairfax County from said persons under this clause. Such audit may be conducted by Fairfax County or its authorized representative.

30.0 REPORTS AND INVOICING:

30.1. The successful Offeror(s) must maintain all records in compliance with federal and state regulations. The successful Offeror(s) must submit to each program administrator, monthly statistical reports and an annual tabulated report

30.2. The successful Offeror(s) must invoice each County department using the final contract separately. Invoices for all users of the contract must meet County requirements, unless otherwise indicated. The successful Offeror(s) must send each department an itemized monthly invoice, which must include the information listed below:

A. Employee name;
B. The name of the County department;
C. Date of services
D. The type of services; and,
E. The itemized cost for each item/service.

30.3. County departments must receive the monthly invoices by the 10th of each month following the month the successful Offeror provided the service. In addition, the successful Offeror will provide each County department a monthly and year-to-date utilization report which lists all information shown above in paragraph 31.2, A-E. The successful offeror will mail the invoices and the utilization reports to the individuals identified in the final contract.

31.0 AMERICANS WITH DISABILITIES ACT REQUIREMENTS:

Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment. Your acceptance of this contract acknowledges your commitment and compliance with ADA.

ATTACHMENT A
RFP06-814063-10

SPECIAL PROVISIONS – FAIRFAX COUNTY

32.0 **NEWS RELEASE BY VENDORS:**
As a matter of policy, the County does not endorse the products or services of a contractor. News releases concerning any resultant contract from this solicitation will not be made by a contractor without the prior written approval of the County. All proposed news releases will be routed to the Purchasing Agent for review and approval.

ATTACHMENT A
RFP06-814063-10

PRICE SCHEDULE

Product Category (NOTE TO BIDDER: Expand and Itemize as Necessary)	Discount From Standard Index (Specify)
A. Personal Protective Equipment (PPE)	
B. Explosive Device Mitigation and Remediation Equipment	
C. CBRNE Search & Rescue Equipment	
D. Interoperable Communications Equipment	
E. Detection Equipment	
F. Decontamination Equipment	
G. Physical Security Enhancement Equipment	
H. Terrorism Incident Prevention Equipment	
I. CBRNE Logistical Support Equipment	
J. Medical Supplies	
K. CBRNE Reference Materials	
L. Other Non-listed Public Safety, Law Enforcement and Fire Equipment	

ATTACHMENT B
RFP06-814063-10

OREGON ADDENDUM

Pursuant to Oregon Revised Statutes Chapter 279A.220 the following Oregon public agencies are registered with U.S. Communities and are eligible to access the contract award made pursuant to this solicitation and are hereby given notice of the foregoing request for proposal for purposes of complying with the procedural requirements of said statute:

Registered Agencies in the State of Oregon

CITY OF ADAIR VILLAGE
CITY OF AUMSVILLE
CITY OF BOARDMAN
CITY OF CANBY
CITY OF CANYONVILLE
CITY OF CLATSKANIE
CITY OF COBURG
CITY OF CONDON
CITY OF COTTAGE GROVE
CITY OF DALLAS
CITY OF DAMASCUS
CITY OF DUNDEE
CITY OF EUGENE
CITY OF GRANTS PASS
CITY OF HILLSBORO
CITY OF HOOD RIVER
CITY OF JOHN DAY
CITY OF LA GRANDE
CITY OF LEBANON
CITY OF MILL CITY
CITY OF MILWAUKIE
CITY OF NORTH PLAINS
CITY OF OREGON CITY
CITY OF PILOT ROCK
CITY OF PORTLAND
CITY OF POWERS
CITY OF SANDY
CITY OF SCAPPOOSE
CITY OF SHERWOOD
CITY OF TIGARD, OREGON
CITY OF TUALATIN, OREGON
CITY OF WARRENTON
CITY OF WILSONVILLE
CITY OF WOOD VILLAGE
BENTON COUNTY
CLATSOP COUNTY
CURRY COUNTY OREGON
DESCHUTES COUNTY
DOUGLAS COUNTY
GILLIAM COUNTY
HOOD RIVER COUNTY
LAKE COUNTY
LINCOLN COUNTY
LINN COUNTY
MARION COUNTY , SALEM, OREGON
MORROW COUNTY
POLK COUNTY
SHERMAN COUNTY
UNION COUNTY
WASCO COUNTY
WASHINGTON COUNTY
YAMHILL COUNTY
BEAVERTON SCHOOL DISTRICT
BROOKING HARBOR SCHOOL DISTRICT NO 17C
CENTENNIAL SCHOOL DISTRICT
CENTRAL CATHOLIC HIGH SCHOOL
CENTRAL POINT SCHOOL DISTRICT NO. 6
COUNTY OF YAMHILL SCHOOL DISTRICT 29
DAVID DOUGLAS SCHOOL DISTRICT
ESTACADA SCHOOL DISTRICT NO.108
GREATER ALBANY PUBLIC SCHOOL DISTRICT
JEFFERSON COUNTY SCHOOL DISTRICT 509-J
KLAMATH FALLS CITY SCHOOLS
LANE COUNTY SCHOOL DISTRICT 4J
LOST RIVER JR/SR HIGH SCHOOL
LOWELL SCHOOL DISTRICT NO.71
MCMINNVILLE SCHOOL DISTRICT NO.40
MEDFORD SCHOOL DISTRICT 549C
MULTNOMAH EDUCATION SERVICE DISTRICT
NORTH CLACKAMAS SCHOOL DISTRICT
ONTARIO MIDDLE SCHOOL
OREGON TRAIL SCHOOL DISTRICT NO.46
PORTLAND PUBLIC SCHOOLS
REDMOND SCHOOL DISTRICT
ROSEBURG PUBLIC SCHOOLS
SCAPPOOSE SCHOOL DISTRICT 1J
SHERWOOD SCHOOL DISTRICT 88J
SPRINGFIELD SCHOOL DISTRICT NO.19
THE CATLIN GABEL SCHOOL
TIGARD-TUALATIN SCHOOL DISTRICT
WEST LINN WILSONVILLE SCHOOL DISTRICT
CHEMEKETA COMMUNITY COLLEGE
COLUMBIA GORGE COMMUNITY COLLEGE
GEORGE FOX UNIVERSITY
LEWIS AND CLARK COLLEGE
LINFIELD COLLEGE
LINN-BENTON COMMUNITY COLLEGE
MT. HOOD COMMUNITY COLLEGE
NORTHWEST CHRISTIAN COLLEGE
PACIFIC UNIVERSITY
REED COLLEGE
ROGUE COMMUNITY COLLEGE
SOUTHERN OREGON UNIVERSITY
SOUTHWESTERN OREGON COMMUNITY COLLEGE
TILLAMOOK BAY COMMUNITY COLLEGE
WESTERN STATES CHIROPRACTIC COLLEGE
WILLAMETTE UNIVERSITY
BOARD OF MEDICAL EXAMINERS
OFFICE OF MEDICAL ASSISTANCE PROGRAMS
OREGON CHILD DEVELOPMENT COALITION
OREGON OFFICE OF ENERGY
OREGON STATE BOARD OF NURSING
CITY COUNTY INSURANCE SERVICES
CLACKAMAS COUNTY DEPT OF TRANSPORTATION
CLEAN WATER SERVICES
COLUMBIA RIVER PUD
COOS COUNTY HIGHWAY DEPARTMENT
CROOK COUNTY ROAD DEPARTMENT
DESCHUTES COUNTY RFPD NO.2
GASTON RURAL FIRE DEPARTMENT
GLADSTONE POLICE DEPARTMENT
HOODLAND FIRE DISTRICT #74
KEIZER POLICE DEPARTMENT
LANE TRANSIT DISTRICT
MARION COUNTY FIRE DISTRCT #1
MULTNOMAH COUNTY BUSINESS AND COMMUNITY SERVICES
MULTONAH COUNTY DRAINAGE DISTRICT #1
NW POWER POOLPORTLAND CENTER FOR THE PERFORMING ARTS
PORTLAND DEVELOPMENT COMMISSION
SUNSET EMPIRE PARK AND RECREATION
THE PORT OF PORTLAND
TUALATIN VALLEY FIRE & RESCUE
WILLAMALANE PARK AND RECREATION DISTRICT
ASSOCIATION OF OREGON COUNTIES
BENTON HOSPICE SERVICE
CANCER CARE RESOURCES
CASCADIA BEHAVIORAL HEALTHCARE
CATHOLIC CHARITIES
DOUGLAS ELECTRIC COOPERATIVE, INC.
EVERGREEN AVIATION MUSEUM AND CAP. MICHAEL KING.
FAMILIES FIRST OF GRANT COUNTY, INC.
HEAD START OF LANE COUNTY
LANE ELECTRIC COOPERATIVE
LANE MEMORIAL BLOOD BANK
LAUREL HILL CENTER
LEAGUE OF OREGON CITIES
LOCAL GOVERNMENT PERSONNEL INSTITUTE
MID COLUMBIA COUNCIL OF GOVERNMENTS
MID-WILLAMETTE VALLEY COMMUNITY ACTION AGENCY, INC
MOSAIC CHURCH
MULTNOMAH LAW LIBRARY
OREGON DEATH WITH DIGNITY
PACIFIC CASCADE FEDERAL CREDIT UNION
PARTNERSHIPS IN COMMUNITY LIVING, INC.
PLANNED PARENTHOOD OF SOUTHWESTERN OREGON
PORTLAND ART MUSEUM
PORTLAND SCHOOLS FOUNDATION
PORTLAND WOMENS CRISIS LINE
ROGUE FEDERAL CREDIT UNION
SAIF CORPORATION
SEXUAL ASSAULT RESOURCE CENTER
SEXUAL ASSAULT RESOURCE CENTER
SPRINGFIELD UTILITY BOARD
ST. MARYS OF MEDFORD, INC.
SUMMIT VIEW COVENANT CHURCH
TRI-COUNTY HEALTH CARE SAFETY NET ENTERPRISE
UMPQUA COMMUNITY DEVELOPMENT CORPORATION
USAGENCIES CREDIT UNION
VOLUNTEERS OF AMERICA OREGON
BENTON COUNTY
DESCHUTES COUNTY RFPD NO.2
MCMINNVILLE SCHOOL DISTRICT NO.40
OUTSIDE IN
PORTLAND PUBLIC SCHOOLS
SEXUAL ASSAULT RESOURCE CENTER
SHERMAN COUNTY

ATTACHMENT C
RFP06-814063-10

MICPA

MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This agreement is made between certain government agencies that execute a Lead Public Agency Certificate ("Lead Public Agencies") to be appended and made a part hereof and other government agencies that register electronically with U.S. Communities or otherwise execute a Participating Public Agency Certificate ("Participating Public Agencies") to be appended and made a part hereof.

RECITALS

WHEREAS, after a competitive bidding and selection process by Lead Public Agencies, a number of Suppliers have entered into Master Agreements to provide a variety of goods, products and services based on national volumes (herein "Products");

WHEREAS, Master Agreements are made available by Lead Public Agencies through U.S. Communities and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Lead Public Agency, subject to any applicable local purchasing ordinances and the laws of the State of purchase;

WHEREAS, the parties desire to comply with the requirements and formalities of the Intergovernmental Cooperation Act as may be applicable to the laws of the State of purchase;

WHEREAS, the parties hereto desire to conserve resources and reduce procurement cost;

WHEREAS, the parties hereto desire to improve the efficiency, effectiveness and economy of the procurement of necessary Products;

NOW, THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products.
2. That the procurement of Products subject to this agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules and regulations that govern each party's procurement practices.
3. That the cooperative use of bids obtained by a party to this agreement shall be in accordance with the terms and conditions of the bid, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
4. That the Lead Public Agencies will make available, upon reasonable request and subject to convenience, information which may assist in improving the effectiveness, efficiency and economy of Participating Public Agencies procurement of Products.
5. That a procuring party will make timely payments to the Supplier for Products received in accordance with the terms and conditions of the procurement. Payment for Products and inspections and acceptance of Products ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Supplier are to be resolved in accord with the law and venue rules of the State of purchase.
6. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
7. The procuring party shall be responsible for the ordering of Products under this agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring party harmless from any liability that may arise from action or inaction of the procuring party.
8. The exercise of any rights or remedies by the procuring party shall be the exclusive obligation of such procuring party.
9. This agreement shall remain in effect until termination by a party giving 30 days written notice to U.S. Communities at 2033 North Main Street, Suite 700, Walnut Creek, CA 94596-3722.
10. This agreement shall take effect after execution of the Lead Public Agency Certificate or Participating Public Agency Participation Certificate or electronic registration, as applicable

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US COMMUNITIES ADMINISTRATIVE AGREEMENT

U.S. COMMUNITIES

Government Purchasers Saving You Money

Founding Co-Sponsors

U.S. Communities Purchasing & Finance Agency (U.S. Communities) is a non-profit instrumentality of government established by state and local government to assist public agencies reduce the cost of purchased goods and finance purchased goods. The Association of School Business Officials, International (ASBO), the National Association of Counties (NACo), the National Institute of Governmental Purchasing (NIGP), the National League of Cities (NLC), and the United States Conference of Mayors (USCM), jointly sponsor the U.S. Communities Government Purchasing Alliance (U.S. Communities).

Designed in cooperation with an Advisory Board of state and local government purchasing officials, U.S. Communities pools the purchasing power of public agencies, achieves bulk volume discounts on behalf of public agencies, competitively solicits quality products through a lead public agency and provides a purchasing forum for public agencies nationwide.

The following document contains an explanation of the commitments, requirements and expectations of all suppliers that enter into an administrative agreement with U. S. Communities. Please review and provide the signature of a Corporate Officer at the end of each section.

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US COMMUNITIES ADMINISTRATIVE AGREEMENT
SUPPLIER COMMITMENTS

U.S. Communities asks each supplier to make three basic commitments to ensure the overall success of the program:

Corporate Commitment – **A commitment that U.S. Communities has the support of senior management, and that the U.S. Communities contract is the supplier's primary offering to state and local government agencies nationwide. The supplier shall make its existing state and local public agency clients aware of its U.S. Communities contract, and upon the state or local public agency's request, such agency will be transitioned to the supplier's U.S. Communities Contract.**

Pricing Commitment – **A commitment that supplier's U.S. Communities pricing is the lowest available pricing (net to buyer) to state and local public agencies nationwide and a further commitment that, if a state or local public agency is otherwise eligible for lower pricing through a federal, state, regional or local contract, the supplier will match the pricing under U.S. Communities.**

Sales Commitment – **A commitment that the supplier will aggressively market U.S. Communities nationwide and that the sales force will be trained, engaged and committed to offering U.S. Communities to state and local public agencies nationwide, with a further commitment that all U.S. Communities sales be accurately and timely reported.**

The Corporate, Pricing and Sales Commitments are the foundation of the relationship between U.S. Communities and its suppliers. The Commitments are not negotiable. If a supplier is found to be in violation and/or non-compliance with one or more of the U.S. Communities Commitments, the supplier will have ninety days to provide resolution and come into compliance. Failure to do so will result in removal from the U.S. Communities national program.

Name: _____
Title: _____
Signature: _____

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US COMMUNITIES ADMINISTRATIVE AGREEMENT
SUPPLIER PROGRAM STANDARDS

We recognize that each supplier has a successful business and may choose to manage its U.S. Communities program in a variety of ways that best suit the supplier's business model, organization and market approach. The following are Program Standards intended to assist the supplier in successfully implementing the U.S. Communities contract:

U.S. Communities Administration Agreement - The supplier is required to execute the U.S. Communities Administration Agreement ("Agreement") prior to the award of the U.S. Communities contract. The Agreement outlines the supplier's general duties and responsibilities in implementing the U.S. Communities contract.

National Account Management Team – The supplier shall provide a National Account manager with the authority and responsibility for the overall success of the U.S. Communities contract within the supplier's organization. The supplier shall also designate a Lead Referral Contact Person, responsible for receiving communications from U.S. Communities concerning new public agency registrations and for ensuring timely follow up by the supplier's staff to requests for contact from public agencies. Additionally, the supplier shall provide the personnel necessary to implement and support a supplier-based internet web page dedicated to the supplier's U.S. Communities program and linked to the U.S. Communities web site.

State and Local Agency Access - Establish the following communication links to facilitate customer access and communication:

- A dedicated U.S. Communities internet web-based homepage with:
  - U.S. Communities standard logo with Founding Co-Sponsors;
  - Copy of original Request for Proposal or Invitation to Bid;
  - Copy of contract and amendments between lead public agency and supplier;
  - Summary of products and pricing;
  - Electronic link to U.S. Communities' online registration page;
  - Other promotional material as desired.
- A dedicated toll free national hotline for U.S. Communities
- A fax number for inquiries and orders
- A dedicated e mail address for general inquiries, "uscommunities@(name of supplier.com)

Electronic Registration - **The supplier is responsible for ensuring that each Participating Public Agency has completed U.S. Communities' online registration process prior to processing the Participating Public Agency's first sales order.**

Sales Report - **The supplier is responsible for reporting all Participating Public Agency sales within 30 days of the end of each calendar quarter in the prescribed format set forth in the Agreement.**

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Administrative Fees - The supplier is responsible for paying to U.S. Communities an administrative fee on all Participating Public Agency sales volumes within 30 days of the end of each calendar quarter as set out in the Agreement.

Quarterly Review - U.S. Communities will schedule a quarterly meeting with the supplier to evaluate the supplier's performance of Supplier Commitments and Program Standards outlined herein.

U.S. Communities Awareness - U.S. Communities is responsible for marketing the overall U.S. Communities concept and program to Participating Public Agencies. U.S. Communities marketing is intended to supplement and enhance the direct sales effort of the supplier. The supplier assists by providing camera-ready logos and by participating in related trade shows and conferences. U.S. Communities employs a national marketing team, a web based registration and lead referral system, a network of national and state sponsors, direct mail, the Internet and newsletters and other publications to increase U.S. Communities awareness.

Supplier Sales - Supplier is responsible for proactive direct sales of supplier's goods and services to public agencies nationwide and the timely follow up to leads established by U.S. Communities. Use of product catalogs, targeted advertising, direct mail and other sales initiatives are encouraged. All sales materials are to use the U.S. Communities logo. U.S. Communities will provide each Supplier with its logo and the standards to be employed in the use of the logo. At a minimum, the supplier's sales initiatives should communicate:

- Contract was competitively solicited by a Lead Public Agency;
- Best government pricing
- No cost to participate
- Non-exclusive contracts

Sales Force Training - Supplier is responsible for the training of its national sales force on the U.S. Communities contract. U.S. Communities is available to train regional or district managers and generally assist with the education of sales personnel. At a minimum, sales training should include:

- Key features of U.S. Communities contract
- Working knowledge of National Sponsors and U.S. Communities Organization and Solicitation Process
- Awareness of the range of public agencies that can access U.S. Communities

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Title: _____
Signature: _____

Supplier Corporate Commitment Guidelines

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1. The supplier must demonstrate in their RFP response and through out the term of their contract that senior management fully supports the U.S. Communities program and its commitments and requirements. Senior management is defined as an executive(s) with company wide authority.

2. The supplier's field force (direct and/or authorized dealer / rep agency etc.) must lead with their U.S. Communities contract when calling on public agencies nationwide. If the supplier has alternate cooperative vehicles (i.e. state contracts, regional cooperatives) U.S. Communities is required to be the lead offering not just one of the supplier's options. If a supplier meets resistance or an objection to utilizing U.S. Communities from a public agency, prior to offering an alternate contract option, the suppliers sales representative must contact the U.S. Communities Regional Manager in the area and request assistance in over coming the barrier or objection. If the U.S. Communities Regional Manager is unable to resolve the public agency's objection then the supplier is permitted to pursue other options.

3. In states where the supplier has an existing state contract, U.S. Communities expects the supplier to notify the state of its U.S. Communities contract and transition the state to U.S. Communities upon the state's request. Regardless of whether or not the state decides to transition to U.S. Communities, U.S. Communities expects the supplier to lead with the U.S. Communities contract to the local public agencies with in the state. Local public agencies include but are not limited to; counties, cities, school districts, special districts, community colleges, colleges, universities and non-profits.
The above applies to other cooperatives held by the supplier.

4. U.S. Communities recognizes that the main value for a supplier to participate in the U.S. Communities program is to generate new incremental revenue. To ensure the credibility of the program U.S. Communities requires its suppliers to inform their existing public agency customers of their U.S. Communities contract. If an existing public agency client requests to be transitioned to the supplier's U.S. Communities contract, U.S. Communities expects the supplier to transition the client and report the client's purchases to U.S. Communities going forward

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Title: _____
Signature: _____

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US COMMUNITIES ADMINISTRATIVE AGREEMENT
Supplier Pricing Commitment Compliance Guidelines

It is U.S. Communities expectation that the standard pricing offered through the supplier's U.S. Communities contract is generally the lowest overall available pricing net to buyer to state and local agencies nationwide. The supplier does have recourse available to come into compliance with the U.S. Communities pricing commitment when a pre-existing contract and / or a public agency's unique buying pattern provide one or more public agencies a lower price than the supplier's U.S. Communities contract. The following options are intended for limited use and not as a routine business practice.

A. If the supplier has a contract that is available to one or more public agencies that offers lower pricing than their U.S. Communities contract, the supplier is required to match the pricing under the U.S. Communities contract and make the eligible public agencies aware that the lower pricing is available under their U.S. Communities contract. If one or more of the eligible agencies request to transition to the U.S. Communities contract, the supplier is expected to transition the agency and report the agency's purchases under the U.S. Communities contract going forward. The price match only applies to eligible agencies. Below are three examples of contracts and eligible agencies.

B. The supplier holds a state contract with lower pricing that is available to all public agencies within the state. The supplier would match the lower state pricing under U.S. Communities and make it available to all public agencies within the state.

C. The supplier holds a regional cooperative contract with lower pricing that is available only to the ten cooperative members. The supplier would match the lower cooperative pricing under U.S. Communities and make it available to all ten public agency cooperative members.

D. The supplier holds a contract with an individual public agency. The public agency contract does not contain any cooperative language and therefore other public agencies are not eligible to utilize the contract. The supplier would be required to match the lower pricing under the U.S. Communities contract and make it available only to the individual public agency.

E. Occasionally U.S. Communities and its suppliers interact with a public agency that has a buying pattern that is a large deviation from the normal public agency buying pattern that causes the supplier's U.S. Communities pricing to be non-competitive and / or higher than an alternative contract held by the supplier. The cause could be created by a unique end user preference or requirement. When this occasion arises the supplier has the ability to address the issue by lowering the price under the U.S. Communities contract on the item(s) causing the large deviation. The supplier would not be required to lower the price for other agencies.

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US COMMUNITIES ADMINISTRATIVE AGREEMENT
PUBLIC AGENCY SOLICITATION RESPONSE GUIDELINES

While it is the objective of the U.S. Communities program to have public agencies piggyback on the contracts rather than issue their own bids and RFPs, U.S. Communities recognizes that for various reasons many public agencies will issue their own solicitations. The following options are available to U.S. Communities Suppliers when responding to Public Agency solicitations.

1. Respond to the bid or RFP with pricing that is higher (net to buyer) than the Suppliers' U.S. Communities contract pricing.
2. Respond to the bid or RFP with pricing that is higher (net to buyer) than the Suppliers U.S. Communities contract pricing. If an alternative response is permitted offer the U.S. Communities contract as an alternative for their consideration.
3. Respond with your U.S. Communities contract pricing. If successful the sales would be reported under U.S. Communities,
4. If competitive conditions required pricing lower than the standard U.S. Communities contract pricing, the supplier can submit lower pricing through the U.S. Communities contract. If successful the sales would be reported under U.S. Communities,
5. Do not respond to the bid or RFP. Make the U.S. Communities contract available to the agency to compare against their solicitation responses.

Name: _____
Title: _____
Signature: _____

ATTACHMENT E
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DISTRIBUTION LIST

Information Copy Distribution List

Nancy Locke
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Seattle, WA. 98104
nancy.locke@seattle.gov

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PRODUCT CATEGORIES

Product Category Examples (Note: Items A-K are compiled in part from the Office of Domestic Preparedness' Authorized Equipment List and The InterAgency Board's Standardized Equipment List):

A. **Personal Protective Equipment** -Equipment worn to protect the individual from hazardous materials and contamination. Levels of protection vary and are divided into three categories based on the degree of protection afforded. The following constitutes equipment intended for use in a chemical/biological threat environment:

Level A. Fully encapsulated, liquid and vapor protective ensemble selected when the highest level of skin, respiratory and eye protection is required. The following constitutes Level A equipment:

- Fully Encapsulated Liquid and Vapor Protection Ensemble, reusable or disposable (tested and certified against CB threats)
- Fully Encapsulated Training Suits · Closed-Circuit Rebreather (minimum 2-hour supply, preferred), or open-circuit Self-Contained Breathing Apparatus (SCBA) or, when appropriate, Air-Line System with 15-minute minimum escape SCBA
- Spare Cylinders/Bottles for rebreathers or SCBA and service/repair kits
- Chemical Resistant Gloves, including thermal, as appropriate to hazard
- Personal Cooling System; Vest or Full Suit with support equipment needed for maintaining body core temperature within acceptable limits
- Hardhat/helmet
- Chemical/Biological Protective Undergarment
- Inner Gloves
- Approved Chemical Resistant Tape
- Chemical Resistant Boots, Steel or Fiberglass Toe and Shank
- Chemical Resistant Outer Booties

Level B. Liquid splash resistant ensemble used with highest level of respiratory protection. The following constitute Level B equipment:

- Liquid Splash Resistant Chemical Clothing, encapsulated or non-encapsulated
- Liquid Splash Resistant Hood
- Closed-Circuit Rebreather (minimum 2-hour supply, preferred), open-circuit SCBA, or when appropriate, Air-Line System with 15-minute minimum escape SCBA
- Spare Cylinders/Bottles for rebreathers or SCBA and service/repair kits
- Chemical Resistant Gloves, including thermal, as appropriate to hazard
- Personal Cooling System; Vest or Full Suit with support equipment needed for maintaining body core temperature within acceptable limits
- Hardhat/helmet
- Chemical/Biological Protective Undergarment
- Inner Gloves
- Approved Chemical Resistant Tape
- Chemical Resistant Boots, Steel or Fiberglass Toe and Shank
- Chemical Resistant Outer Booties

Level C. Liquid splash resistant ensemble, with same level of skin protection of Level B, used when the concentration(s) and type(s) of airborne substances(s) are known and the criteria for using air-purifying respirators are met. The following constitute Level C equipment:

- Liquid Chemical Splash Resistant Clothing (permeable or non-permeable)
- Liquid Chemical Splash Resistant Hood (permeable or non-permeable)
- Tight-fitting, Full Facepiece, Negative Pressure Air Purifying Respirator with the appropriate cartridge(s) or canister(s) and P100 filter(s) for protection against toxic industrial chemicals, particulates, and military specific agents.
- Tight-fitting, Full Facepiece, Powered Air Purifying Respirator (PAPR) with chemically resistant hood with appropriate cartridge(s) or canister(s) and high-efficiency filter(s) for protection against toxic industrial chemicals, particulates, and military specific agents.
- Equipment or system batteries will include those that are rechargeable (e.g. NiCad) or non-rechargeable with extended shelf life (e.g. Lithium)
- Chemical Resistant Gloves, including thermal, as appropriate to hazard
- Personal Cooling System; Vest or Full Suit with support equipment

PRODUCT CATEGORIES

- Hardhat
- Inner Chemical/Biological Resistant Garment
- Inner Gloves
- Chemical Resistant Tape
- Chemical Resistant Boots, Steel or Fiberglass Toe and Shank
- Chemical Resistant Outer Booties

Level D. Selected when no respiratory protection and minimal skin protection is required, and the atmosphere contains no known hazard and work functions preclude splashes, immersion, or the potential for unexpected inhalation of, or contact with, hazardous levels of any chemicals.

- Escape mask for self-rescue Note: During CBRNE response operations, the incident commander determines the appropriate level of personal protective equipment. As a guide, Levels A, B, and C are applicable for chemical/ biological/ radiological contaminated environments. Personnel entering protective postures must undergo medical monitoring prior to and after entry. ***All SCBAs should meet standards established by the National Institute for Occupational Safety and Health (NIOSH) for occupational use by emergency responders when exposed to Chemical, Biological, Radiological and Nuclear (CBRN) agents in accordance with Special Tests under NIOSH 42 CFR 84.63(c), procedure number RCT-CBRN-STP-0002, dated December 14, 2001. ODP anticipates making compliance with NIOSH SCBA CBRN certification a mandatory requirement for all SCBAs purchased under the FY 2004 State Homeland Security Grant Program.***

B. **Explosive Device Mitigation and Remediation**-Equipment providing for the mitigation and remediation of explosive devices in a CBRNE environment:

- Bomb Search Protective Ensemble for Chemical/Biological Response
- Chemical/Biological Undergarment for Bomb Search Protective Ensemble
- Cooling Garments to manage heat stress
- Ballistic Threat Body Armor (not for riot suppression)
- Ballistic Threat Helmet (not for riot suppression)
- Blast and Ballistic Threat Eye Protection (not for riot suppression)
- Blast and Overpressure Threat Ear Protection (not for riot suppression)
- Fire Resistant Gloves
- Dearmer/Disrupter
- Real Time X-Ray Unit; Portable X-Ray Unit
- CBRNE Compatible Total Containment Vessel (TCV)
- CBRNE Upgrades for Existing TCV
- Robot; Robot Upgrades
- Fiber Optic Kit (inspection or viewing)
- Tents, s tandard or air inflatable for chem/bio protection
- Inspection mirrors
- Ion Track Explosive Detector

C. **CBRNE Search and Rescue Equipment** -Equipment providing a technical search and rescue capability for a CBRNE environment:

- Hydraulic tools; hydraulic power unit
- Listening devices; hearing protection
- Search cameras (including thermal and infrared imaging)
- Breaking devices (including spreaders, saws and hammers)
- Lifting devices (including air bag systems, hydraulic rams, jacks, ropes and block
- and tackle)
- Blocking and bracing materials
- Evacuation chairs (for evacuation of disabled personnel)
- Ventilation fans

D. **Interoperable Communications Equipment** -Equipment and systems providing connectivity and electrical interoperability between local and interagency organizations to coordinate CBRNE response operations. Includes system design, installation, service and maintenance.

PRODUCT CATEGORIES

- Land Mobile, Two-Way In-Suit Communications (secure, hands-free, fully duplex, optional), including air-to-ground capability (as required)
- Antenna systems
- Personnel Alert Safety System (PASS) - (location and physiological monitoring systems optional)
- Personnel Accountability Systems
- Individual/portable radios, software radios, portable repeaters, radio interconnect systems, satellite phones, batteries, chargers and battery conditioning systems
- Computer systems designated for use in an integrated system to assist with detection and communication efforts (must be linked with integrated software packages designed specifically for chemical and/or biological agent detection and communication purposes)
- Portable Meteorological Station (monitors temperature, wind speed, wind direction and barometric pressure at a minimum)
- Commercially available crisis management software
- Mobile Display Terminals

E. **Detection Equipment** -Equipment to sample, detect, identify, quantify, and monitor for chemical, biological, radiological/nuclear and explosive agents throughout designated areas or at specific points:
Chemical

- M-8 Detection Paper for chemical agent identification
- M-9 Detection Paper (roll) for chemical agent (military grade) detection
- M-256 Detection Kit for Chemical Agent (weapons grade—blister: CX/HD/L; blood: AC/CK; and nerve: GB/VX) detection
- M-256 Training Kit
- M-18 Series Chemical Agent Detector Kit for surface/vapor chemical agent analysis
- Hazard Categorizing (HAZCAT) Kits
- Photo-Ionization Detector (PID)
- Flame Ionization Detector (FID)
- Surface Acoustic Wave Detector
- Gas Chromatograph/Mass Spectrometer (GC/MS)
- Ion Mobility Spectrometry
- Stand-Off Chemical Detector
- M-272 Chemical Agent Water Test Kit
- Colormetric Tube/Chip Kit specific for TIC s and CBRNE applications
- Multi-gas Meter with minimum of O2 and LEL
- Leak Detectors (soap solution, ammonium hydroxide, etc)
- pH Paper/pH Meter
- Waste Water Classifier Kit
- Oxidizing Paper
- Protective cases for sensitive detection equipment storage & transport

Biological · Point Detection Systems/Kits (Immunoassay or other technology) **Radiological/Nuclear** · Radiation detection equipment (electronic or other technology that detects alpha, beta, gamma, and high intensity gamma)

- Personal Dosimeter
- Scintillation Fluid (radiological) pre-packaged
- Radiation monitors

F. **Decontamination Equipment** -Equipment and material used to clean, remediate, remove or mitigate chemical and biological contamination:
Chemical

- Decontamination system for individual and mass application with environmental controls, water heating system, showers, lighting, and transportation (trailer)
- Decon Litters/roller systems
- Extraction Litters, rollable
- Runoff Containment Bladder(s), decontamination shower waste collection with intrinsically-safe evacuation pumps, hoses, connectors, scrub brushes, nozzles
- Spill Containment Devices

PRODUCT CATEGORIES

- Overpak Drums
- Non-Transparent Cadaver Bags (CDC standard)
- Hand Carts
- Waste water classification kits/strips

Biological

- HEPA (High Efficiency Particulate Air) Vacuum for dry decontamination

G. **Physical Security Enhancement Equipment** -Equipment to enhance the physical security of critical infrastructure. Includes system design, installation, service and maintenance.

Surveillance, Warning, Access/Intrusion Control

Ground

- Motion Detector Systems: Acoustic; Infrared; Seismic; Magnetometers
- Barriers: Fences; Jersey Walls
- Impact Resistant Doors and Gates
- Portal Systems; locking devices for access control
- Alarm Systems
- Video Assessment/Cameras: Standard, Low Light, IR, Automated Detection
- Personnel Identification: Visual; Electronic; Acoustic; Laser; Scanners; Cyphers/Codes
- X-Ray Units
- Magnetometers
- Vehicle Identification: Visual; Electronic; Acoustic; Laser; Radar

Explosion Protection

- Blast/Shock/Impact Resistant Systems
- Protective Clothing
- Column and Surface Wraps; Breakage/Shatter Resistant Glass; Window Wraps
- Robotic Disarm/Disable Systems

H. **Terrorism Incident Prevention Equipment (Terrorism Early Warning, Prevention, and Deterrence Equipment and Technologies)** -State and local public safety agencies will increasingly rely on the integration of emerging technologies and equipment to improve jurisdictional capabilities to deter and prevent terrorist incidents. This includes, but is not limited to, equipment and associated components that enhance a jurisdiction's ability to disseminate advanced warning information to prevent a terrorist incident or disrupt a terrorist's ability to carry out the event, including information sharing, threat recognition, and public/private sector collaboration.

- Data collection/information gathering software
- Data synthesis software
- Geographic Information System information technology and software
- Law enforcement surveillance equipment

I. **CBRNE Logistical Support Equipment** -Logistical support gear used to store and transport the equipment to the CBRNE incident site and handle it once onsite. This category also includes small support equipment including intrinsically-safe (non-sparking) hand tools required to support a variety of tasks and to maintain equipment as well as general support equipment intended to support the CBRNE incident response:

- Equipment trailers
- Weather-tight containers for equipment storage
- Software for equipment tracking and inventory
- Handheld computers for Emergency Response applications
- Small Hand tools
- Binoculars, head lamps, range finders and spotting scopes (not for weapons use)
- Small Generators to operate light sets, water pumps for decontamination sets
- Light sets for nighttime operations/security
- Electrical Current detectors
- Equipment harnesses, belts, and vests
- Isolation containers for suspected chemical/biological samples
- Bull horns
- Water pumps for decontamination systems

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PRODUCT CATEGORIES

- Bar code scanner/reader for equipment inventory control
- Badging system equipment and supplies
- Cascade system for refilling SCBA oxygen bottles
- SCBA fit test equipment and software to conduct flow testing
- Testing Equipment for fully encapsulated suits
- Cooling/Heating/Ventilation Fans (personnel and decontamination tent use)
- HAZMAT Gear Bag/Box

J. **Medical Supplies** -Medical supplies required for response to a CBRNE incident. Contract users are responsible for replenishing items after shelf-life expiration date(s).

Medical Supplies

- Automatic Biphasic External Defibrillators and carry bags
- Equipment and supplies for establishing and maintaining a patient airway at the
- advanced life support level (to include OP and NG airways; ET tubes, styletes, blades, and handles; portable suction devices and catheters; and stethoscopes for monitoring breath sounds)
- Blood Pressure Cuffs
- IV Administration Sets (Macro and Micro) and Pressure Infusing Bags
- IV Catheters (14, 16, 18, 20, and 22 gauge)
- IV Catheters (Butterfly 22, 24 and 26 gauge)
- Manual Biphasic Defibrillators (defibrillator, pacemaker, 12 lead) and carry bags
- Eye Lense for Lavage or Continuous Medication
- Morgan Eye Shields
- Nasogastric Tubes
- Oxygen administration equipment and supplies (including bag valve masks; rebreather and non-rebreather masks, and nasal cannulas; oxygen cylinders, regulators, tubing, and manifold distribution systems; and pulse oximetry, Capnography & CO2 detection devices)
- Portable Ventilator
- Pulmonary Fit Tester
- Syringes (3cc and 10cc)
- 26 ga ½" needles (for syringes)
- 21 ga. 1 ½ " needles (for syringes)
- Triage Tags and Tarps
- Sterile and Non-Sterile dressings, all forms and sizes
- Gauze, all sizes

K. **CBRNE Reference Materials** -Reference materials designed to assist emergency first responders in preparing for and responding to a CBRNE incident. This includes but is not limited to the following:

- NFPA Guide to hazardous materials
- NIOSH Hazardous Materials Pocket Guide
- North American Emergency Response Guide
- Jane's Chem-Bio Handbook
- First Responder Job Aids

L. **All Other Non-listed Public Safety, Law Enforcement and Fire Equipment available through your company** – Equipment, supplies and materials (such as general Fire Turn-out gear and Law Enforcement Tactical equipment) that Bidder offers but does not appear specifically in the above categories.

ATTACHMENT G
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COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

1. **AUTHORITY** -The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. **DEFINITIONS-**

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BEST VALUE: As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

BID: The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

OPEN MARKET PROCUREMENT (OMP): A method of competitive bidding for the purchase or lease of goods, non-professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less than $50,000.

PROFESSIONAL & CONSULTANT SERVICES: Any type of professional service which is either: 1) performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution), or 2) any other type of similar contractual service (including consultants), required by the Fairfax County Government but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of professional service required and at fair and reasonable compensation rather than by competitive sealed bidding.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

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RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).
RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

SERVICES: Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

STATE: Commonwealth of Virginia.

CONDITIONS OF BIDDING

3. BID FORMS-Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope provided with the solicitation. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

4. LATE BIDS & MODIFICATIONS OF BIDS-

a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:

1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or

2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.

b. If the County declares administrative or liberal leave, scheduled bid openings or receipt of proposals will be extended to the next business day.

c. The time of receipt of bids at the specified location is the time-date stamp of such location on the bid wrapper or other documentary evidence of receipt maintained by the specified location.

d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

5. WITHDRAWAL OF BIDS-

a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:

1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a

claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.

e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.

6. **ERRORS IN BIDS**-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

7. **MAILING OF BIDS** – All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted either a) in the special mailing envelope provided by the Department of Purchasing and Supply Management or b) have the solicitation number, subject, and date/time of opening/closing clearly marked on the outside of any other wrapper used.

8. **COMPLETENESS**-To be responsive, a bid must include all information required by the solicitation.

9. **ACCEPTANCE OF BIDS/BINDING 90 DAYS**-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.

10. **CONDITIONAL BIDS**-Conditional bids are subject to rejection in whole or in part.

11. **BIDS FOR ALL OR PART**-Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.

12. **AREA BIDS**-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.

13. **TIME FOR RECEIVING BID**-Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.

14. **BID OPENING**-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site: http://www.fairfaxcounty.gov/dpsm/solic.htm.

Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.

15. **OMISSIONS & DISCREPANCIES**-Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.

16. **RESPONSE TO SOLICITATIONS**-In the event a vendor cannot submit a bid on a solicitation, he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.

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17. BIDDER INTERESTED IN MORE THAN ONE BID-If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

18. TAX EXEMPTION-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

19. PROHIBITION AGAINST UNIFORM PRICING-The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market methods of procurement. In submitting a bid each bidder shall, by virtue of submitting a bid, guarantee that he or she has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.

SPECIFICATIONS

20. QUESTIONS CONCERNING SPECIFICATIONS-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

21. BRAND NAME OR EQUAL ITEMS-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

22. FORMAL SPECIFICATIONS-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

23. FEDERAL SPECIFICATIONS-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

AWARD

24. AWARD OR REJECTION OF BIDS-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;

b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

d. The quality of performance of previous contracts or services;

e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

g. The quality, availability and adaptability of the goods or services to the particular use required;

h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

i. The number and scope of the conditions attached to the bid;

j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and

k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,

b. General Conditions and Instructions to Bidders,

c. Special Provisions and Specifications,

d. Pricing Schedule,

e. Any Addenda/Amendments/Memoranda of Negotiations

26. TIE-BIDS – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

27. PROMPT PAYMENT DISCOUNT-

a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.

b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

28. INSPECTION-ACCEPTANCE-For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

29. DEFINITE BID QUANTITIES-Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

30. REQUIREMENT BID QUANTITIES-On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

CONTRACT PROVISIONS

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31. TERMINATION OF CONTRACTS-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.

b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

32. TERMINATION FOR CONVENIENCE-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

33. TERMINATION OF CONTRACT FOR CAUSE-

a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

34. CONTRACT ALTERATIONS-No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

36. FUNDING-A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

37. DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

38. NON-LIABILITY-The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

39. NEW GOODS, FRESH STOCK-All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

40. NON-DISCRIMINATION-During the performance of this contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such Contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over $10,000 so that the provisions will be binding upon each subcontractor or vendor.

e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

41. OFFICE OF SMALL BUSINESS-

a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.

b. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.

c. As used in this contract the term "small business" means a corporation, partnership, or sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer then 100 employees, or less than $1,000,000 in annual receipts.

d. As used in this contract, the term "minority business" means a business enterprise that is at least 51 percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical impairment that substantially limits one or more of the major life activities of such individuals, a record of such impairment, or who are regarded as having such an impairment.

e. Contractors may rely on oral or written representations by subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.

f. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

42. GUARANTEES & WARRANTIES-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

43. PRICE REDUCTION- If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT. Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent.

The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

44. CHANGES-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment.

No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

45. PLACING OF ORDERS-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

ATTACHMENT G
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DELIVERY PROVISIONS

46. SHIPPING INSTRUCTIONS - CONSIGNMENT-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

47. RESPONSIBILITY FOR SUPPLIES TENDERED-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

48. INSPECTIONS-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

49. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

50. POINT OF DESTINATION-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

51. ADDITIONAL CHARGES-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

52. METHOD AND CONTAINERS-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

53. WEIGHT CHECKING-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

54. DEMURRAGE AND RE-SPOTTING-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

55. REPLACEMENT-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

56. PACKING SLIPS OR DELIVERY TICKETS-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

BILLING

57. BILLING-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

PAYMENTS

58. PAYMENT-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

59. PARTIAL PAYMENTS-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

GENERAL

61. GENERAL GUARANTY-Contractor agrees to:

a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.

b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.

c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.

d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.

e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

62. SERVICE CONTRACT GUARANTY-Contractor agrees to:

a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.

b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.

c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.

d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.

e. Stipulate that the presence of a County inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

63. INDEMNIFICATION-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided

by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

64. OFFICIALS NOT TO BENEFIT-

a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.

b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

65. LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

66. REGISTERING OF CORPORATIONS-Any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

67. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

68. VIRGINIA FREEDOM OF INFORMATION ACT-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act except as provided below:

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

b. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in paragraph "c" below. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

c. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (I) invoke the protections of this section prior to or upon submission of the data or other materials, (II) identify the data or other materials to be protected, and (III) state the reasons why protection is necessary.

d. Nothing contained in this section shall be construed to require the County, when procuring by "competitive negotiation" (Request for Proposal), to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

BIDDER/CONTRACTOR REMEDIES

69. INELIGIBILITY-

a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.

2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;

3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:

(a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

6. The contractor has abandoned performance or been terminated for default on any other Fairfax County project;

7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-

a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-

a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

72. PROTEST OF AWARD OR DECISION TO AWARD-

a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4e of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4e, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.

b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

73. CONTRACTUAL DISPUTES-

a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.

b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

74. LEGAL ACTION-No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

75. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

76. PROFESSIONAL AFFILIATION-The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

77. DRUG FREE WORKPLACE-During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over $10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this section, the employees

of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

APPROVED:

/S/ David P. Bobzien
COUNTY ATTORNEY

/S/ Cathy A. Muse
COUNTY PURCHASING AGENT