

Purchasing

Kelly S. Dixon, CPPO CPPB
Procurement Manager



10459 Courthouse Dr, Suite 201 • King George, VA • Telephone (540) 775-8575 • Fax (540) 775-7692

REQUEST FOR QUOTE

TO: Prospective Vendors
DATE: September 19, 2011
SUBJECT: Request for Quotes #Q-09282011-1300 Oxygen Cylinder Rental Services/Lease

This Request for Quote (RFQ) for the Rental Services/Lease of Filled Medical Oxygen Cylinders, and exchange services for use by King George County (KGC) Department of Fire, Rescue, and Emergency Services, is forwarded for your consideration.

1.0 INTENT: KGC is seeking quotes to establish a Three (3) year Agreement for the weekly supply of filled, aluminum oxygen cylinders for use in the 24/7 emergency medical services operations of the King George County Department of Fire, Rescue, and Emergency Management Services.

KGC intends to enter into a Goods and Services contract with the selected Bidder using its standard Goods and Services Agreement. A sample Services Agreement is attached to this RFQ as ATTACHMENT A.

20 TERM OF AGREEMENT/LEASE: Thirty-three (33) months – October 1, 2011 through July 31, 2014. Two (2) additional twelve (12) month extensions may be granted upon mutual agreement, in writing, by both parties (KGC & Contractor). Pricing for any extension term shall be mutually agreed upon, in writing, a minimum of Sixty (60) days prior to the start of any extension term.

3.0 COMPETITION INTENDED: It is KGC's intent that this RFQ permit competition. It shall be the Vendor's responsibility to advise the Procurement Manager, in writing, if any language, requirement, specifications, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this RFQ to a single source. Such notification must be received by the Procurement Manager no later than five (5) business days prior to the date set for quotes to close.

4.0 **SPECIFICATIONS:** Weekly delivery/exchange of Seamless, DOT Approved, Aluminum, Ready-To-Use, Medical Grade, Portable, Oxygen Cylinders with Permanently Mounted Regulators. Adjustable flow rate- ½ to 25 liters per minute, 50 psi DISS connection for continuous positive airway pressure type ventilators. Keyless on/off valve. Protective shroud to keep regulator and gauge safe from damage. Easy carry handle. Other oxygen cylinder types Included.

4.1 **ALUMINUM ONLY – Steel Cylinders NOT Acceptable, and WILL NOT be considered.**

4.2 **Delivery Locations:**

King George Fire/Rescue Station 1 – 8122 Kings Highway, King George, VA 22485

King George (Dahlgren) Rescue Station 2 -16037 Dahlgren Rd., King George, VA 22485

4.3 **Cylinder Types:**

Stationary, 141 (Type M) CF Cylinders

Quantity – 15

(Ten [10] delivered to Fire/Rescue Station 1, Five [5] delivered to Rescue Station 2 – Addresses listed above)

Portable Aluminum Oxygen Cylinders Type “E” (Ready-to-Use)

Quantity – 50

(Thirty-five [35] delivered to Fire/Rescue Station 1, Fifteen [15] delivered to Station 2 – Addresses listed above)

4.4 **Rotation of Cylinders:**

Exchange empty cylinders for full cylinders on a weekly basis. All cylinder rotations to occur on a weekly basis during regular business hours (8:00 am – 5:00 pm Monday-Friday), at both delivery locations listed above. **It is mission critical that oxygen cylinders are exchanged on time and in accurate numbers.**

Option: A single delivery/exchange location (King George Fire/Rescue Station 1) may be considered by KGC, if it determines, in its sole opinion, that a single delivery/exchange location is in its best interest. KGC's decision will be final.

4.5 **Addition/Reduction of Cylinder Count:**

Based on need, as determined by KGC, additional cylinders may be added, or the cylinder count reduced, throughout the lease term. Billing will be adjusted as per the unit prices quoted per cylinder for **only** those cylinders actually in use by KGC at any time during the lease term. Additional cylinders shall be added to the current lease term, **not** added as a separate lease term.

4.6 **Billing/Invoicing:**

Invoicing Requirements: Only two invoices shall be submitted to KGC per month: #1 – Cylinder Rental, #2 – Oxygen

A. **Monthly Cylinder Rental:** One (1) monthly invoice that identifies the type (D or M) and quantity of each cylinder type contracted for rental shall be issued separately from the Oxygen invoice. This monthly invoice shall be for all cylinders contracted, there shall be no variation. The quantity of cylinders on this invoice shall not change from month-to-month except in the event of a, KGC requested and authorized, increase or decrease in monthly cylinder rental requirements.

B. **Oxygen:** Monthly Oxygen invoicing shall detail the following:

- Date, Number and Type (D or M) of cylinders exchanged during the billing period
- Delivery ticket number for each exchange in the billing period
- Weekly total amount of Oxygen used in the billing period
- Total amount of Oxygen used in the billing period
- Unit price, and total price for Oxygen invoiced in the billing period.

5.0 **TERMS AND CONDITIONS:**

For ease of reference, the individual/firm who receives a Contract as a result of this Request for Quote (RFQ) will hereinafter be referred to as a "Contractor".

5.1 **Legal Status:** King George County, Virginia, is a political subdivision of the Commonwealth of Virginia and a body politic, (County) herein referred to as KGC.

5.2 **Quote Prices:** Quotes shall be in the form of a firm fixed delivered, assembled and installed unit price, and total price, for each item identified on the Fax-Back form. Prices shall be for the complete, single lot, delivery of items, F.O.B. Destination, which shall include, but not be limited to, packaging, crating, pallets, insurance, and transportation/shipping/handling costs to the delivery destination. **Extra charges will not be allowed.** "Discount from list" quotes are not acceptable.

- 5.3 **Back Orders:** Back orders will not be accepted.
- 5.4 **Condition Of Items:** All items shall in first class working and aesthetic condition, including containers suitable for shipment and storage, unless otherwise indicated herein. Verbal agreements to the contrary will not be recognized.
- 5.5 **Delivery:** All items ordered shall be delivered F.O.B. destination. Items will not be considered accepted until items are inspected. All packages or shipping containers must bear the date and the Ship-To-Location. KGC reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made by the time specified on the Quote unless otherwise authorized, in writing, by the Procurement Manager.
- 5.6 **Failure To Deliver:** Failure to comply with the terms and conditions of this solicitation or to fail to deliver goods and services identified in the solicitation and resulting contract at the firm-fixed delivered prices quoted will be considered default of the contract award. Should the Contractor be found in default of the contract, KGC may purchase the goods/services on the open market, and any excess cost which may result from default actions shall be at the expense of the Contractor. The Contractor shall, in this instance, be responsible for any and all costs incurred by KGC to procure the required goods/services.
- 5.7 **Non-Appropriation:** KGC shall be bound, hereunder, only to the extent that such funds shall have been appropriated and budgeted and are otherwise available for the purpose of this Agreement. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for payment due under this Agreement, then COUNTY shall immediately notify CONTRACTOR, in writing, of such occurrence and this AGREEMENT shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to COUNTY of any kind whatsoever.
- 5.8 **Payment Terms:** Once monthly, the vendor shall prepare and submit an original detailed/itemized invoice to KGC (See Section 4.6 for invoice details). All invoices must bear the Contract Number and the Ship-To Location. Invoices submitted without the required Contract number and Ship-To location may be returned with subsequent delay in payment. Any payment terms requiring payment in less than 45 days will be regarded as requiring payment 45 days after approved invoice or KGC acceptance, whichever occurs last. However, this shall not affect offers of discounts for payment in less than 45 days.
- 5.9 **Contract Award:** The award will be made to the lowest responsive and responsible quoting individual/firm that meets the specification for all goods/services indicated in this Request for Quote.

KGC reserves the right to reject any or all quotes, in whole or in part, to waive any informality and to delete items prior to making the award, whenever it is deemed, in the sole opinion of KGC, to be in its best interest. KGC reserves the right to make the sole determination of whether the goods/services offered meet the required level of quality and is acceptable. KGC's decision shall be final.

- 5.10 **Quantities:** The quantities specified are those intended to be purchased by KGC. The exact amount ordered will be governed by actual needs to be determined at the time of award. KGC will only be obligated, under this contract, to the extent of goods/services received.
- 5.11 **Ownership of Cylinders:** All cylinders rented under any resulting Contract shall remain the property of the Vendor throughout the term of the Contract.
- 5.12 **Taxes:** King George County is exempt from excise taxation by virtue of exemption certificate No. 54-0716449. The Purchasing Agent will complete such documents as may be necessary for the CONTRACTOR to comply with applicable tax laws and regulations.
- 5.13 **Use Of Brand Names:** The brand name, make and manufacturer listed does not restrict Vendors to the specific brand, make and manufacturer named.
- 5.14 **Work Site Damages:** Any damage, including damage to grounds, facility, and finished surfaces resulting from the performance of this award shall be repaired to KGC's satisfaction at the Contractor's expense
- 5.15 **King George County does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against any Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment.**
- 6.0 **SUBMISSION OF QUOTES:** All quotes are to be submitted to the KGC Procurement Manager no later than **2:00 PM, September 28, 2011**. Quotes may be submitted by mail, Fax, or E-mail. Quotes received after the published deadline will be considered non-responsive and rejected.

All quotes must be submitted on the forms provided with this RFQ (Pages 9 & 10)

If you have any questions, please feel free to contact me at (540) 775-8575, or e-mail kdixon@co.kinggeorge.state.va.us



REQUEST FOR QUOTE - FAX-BACK

Quote No: Q-09282011-1400 Close Date: September 28, 2011 Time: 2:00 PM

Description: Oxygen Cylinder Rental Services/Lease

Requestor: Kelly S. Dixon, CPPO CPPB Phone: 540.775-8575 Fax: 540.775.7692

Please note: All unit prices MUST include all applicable transportation, delivery, and handling charges. Extra charges are NOT allowed.

Line	Description	Qty.	Unit Price	Total Price	Initial Delivery (Days ARO*)
1	Aluminum Portable Ready-To-Use "E" Medical Grade Oxygen Cylinders	50			
2	141 cf "M" Medical Grade Oxygen Grade Oxygen Cylinders	15			
3	Option: Single Delivery/Pick-Up Point	Discount from unit prices of lines 1, 2, 3			

* ARO = After Receipt of Order

This quote must be signed by an authorized representative of the firm submitting the quote. Any alterations or erasures to the quote must be initialed by the undersigned authorized representative. The below signed agrees, and certifies, that he/she is the authorized representative of the quoting firm, and that the information provided in this quote is true and accurate. The undersigned also certifies that all items quoted meet or exceed the specification provided. The signing representative also acknowledges that providing incorrect or incomplete information may be cause for quote rejection or order/contract termination.

Company Name: _____

Address: _____

E-Mail Address: _____

Authorized Signature: _____

Name/Title: _____

FEIN (Federal Employee ID Number) (required) _____

Phone: _____ Fax: _____

Are electronic Purchase Orders accepted? Yes ___ No ___
(Response does **not** affect the award decision)

A copy of the firm/individual's IRS Form W9 must be included with the quote submission.

MANDATORY REQUIREMENT: KING GEORGE COUNTY WILL NOT ACCEPT QUOTES FROM FIRMS NOT AUTHORISED TO CONDUCT BUSINESS IN THE COMMONWEALTH BY THE VIRGINIA STATE CORPORATION COMMISSION

CERTIFICATION OF AUTHORITY TO TRANSACT BUSINESS IN THE COMMONWEALTH.

A Contractor (Vendor) organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

If your authority to transact business is revoked or cancelled at any time during the term of this Agreement the AUTHORITY may void any and all agreements and contracts at any time without notice, set-off or recourse.

I certify that _____ is authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Virginia Code:
Yes/No _____

CONTRACTOR'S identification number issued by the SCC: _____

If you assert that your entity is not required to have such state authorization, state your exception/exemption:

THIS PAGE MUST BE COMPLETED IN ITS ENTIRETY AND SUBMITTED WITH THE QUOTE FOR THE QUOTE TO BE CONSIDERED FOR AWARD.



Kelly S. Dixon, CPPO CPPB
Procurement Manager

10459 Courthouse Dr, Suite 201, King George, Virginia • Telephone (540) 775-1657 • Fax (540) 775-5560

SAMPLE – DO NOT COMPLETE AND RETURN

GOODS AND SERVICES AGREEMENT
NUMBER: 09282011-1400-001-FREMS

SUBJECT:

Between:

King George County
10459 Courthouse Dr.
Suite 200
King George, Virginia 22485

Phone: (540) 775-9181
Fax: (540) 775-5248

And CONTRACTOR:

Phone: () _____
Fax: () _____

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ATTACHMENTS:

- GENERAL TERMS AND CONDITIONS (EXHIBIT 1)**
- CERTIFICATE OF INSURANCE (EXHIBIT 2)**
- REQUEST FOR QUOTE # 09282011-1400 (EXHIBIT 3)**
- _____’S QUOTE DATED _____ (EXHIBIT 4)**



**GOODS AND SERVICES AGREEMENT
NUMBER: 09282011-1400-001-FREMS**

This **GOODS AND SERVICES AGREEMENT** ("AGREEMENT"), entered into this _____ day of _____, 20__ between **KING GEORGE COUNTY** ("COUNTY"), a political subdivision of the Commonwealth of Virginia and a body politic, by and through its undersigned Purchasing Agent, pursuant to the authority expressly granted by the King George County Board of Supervisors, and _____ ("CONTRACTOR"). COUNTY and CONTRACTOR are collectively referred to as "PARTIES."

WITNESSETH:

WHEREAS, COUNTY, desires to Lease Medical Grade Filled Aluminum Oxygen Cylinders and Weekly Exchange Services as further described herein and set forth in the referenced and attached documents, in accordance with the requirements of the King George County Purchasing Ordinance; and

WHEREAS, CONTRACTOR has the expertise, knowledge and ability to provide the services set forth herein and in the referenced and attached documents; and

WHEREAS, COUNTY desires to hire CONTRACTOR to provide the services set forth herein and in the referenced and attached documents; and

WHEREAS CONTRACTOR was awarded this AGREEMENT after a duly performed competitive process; and

THEREFORE, in consideration of the mutual agreements contained in this AGREEMENT and the terms and conditions set forth below and by the referenced and attached documents, it is hereby AGREED between the Parties as follows:

1.0 GENERAL TERMS AND CONDITIONS

This AGREEMENT shall be subject to the "General Terms and Conditions", attached as Exhibit 1, and incorporated into this AGREEMENT.

2.0 SCOPE OF SERVICES

All goods and services shall in all ways comply with the specifications set forth in Request for Quote# 09282011-1400, attached and incorporated into this Agreement as Exhibit 3.

3.0 PRICING & PAYMENT

All pricing and payment shall be as set forth in Section 1.9 of this AGREEMENT.

4.0 **WARRANTIES AND TITLE**

CONTRACTOR warrants that it has free and clear title, without encumbrance of any kind to goods and services set forth in this AGREEMENT and all attachments, and that it has the lawful right to dispose of, provide and sell goods and services in this AGREEMENT.

5.0 **AGREEMENT DOCUMENTS**

This AGREEMENT includes the following Agreement Documents:

- a. General Terms and Conditions, Exhibit 1
- b. Certificate of Insurance, Exhibit 2
- c. Request for Quote# 09282011-1400 Exhibit 3
- d. _____'s Quote dated _____, Exhibit 4

6.0 **MERGER**

CONTRACTOR and COUNTY agree that the Agreement Documents set forth in the previous paragraph contain the entire agreement between the parties and that any previous representation or agreement, in writing or otherwise, is hereby superseded and made null and void. All amendments to this AGREEMENT shall be in writing with the notice provided as set forth in the General Terms and Conditions, attached as Exhibit 1.

7.0 **CHOICE OF LAWS AND VENUE**

Any and all disputes of any kind related to this AGREEMENT shall be brought before the King George County Circuit Court and determined under the Laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties hereby set their signature to this AGREEMENT on

_____, 20__.

County of King George, Virginia:

Contractor:

By: _____

A. Travis Quesenberry
County Administrator
King George County

Phone: (540) 775-9181

Fax: (540)775-5248

(____) _____

By: _____

Title: _____

Approved as to form:

County Attorney

CERTIFICATION: I, _____, certify by my signature above that I am the duly authorized agent of _____, and have all right and authority to represent _____, and to enter into this AGREEMENT.



EXHIBIT 1

GENERAL TERMS AND CONDITIONS

I.1 DEFINITIONS

- I.1.1 "Department Head" means the director of the using department of King George County.
- I.1.2 "Duly authorized representative" means any person authorized in writing by the department head to act for the department head in connection with this AGREEMENT
- I.1.3 "Purchasing Agent" means the Purchasing Agent of King George County whose duties and responsibilities are more particularly described in the King George County Purchasing Ordinance, or his or her designees, as duly authorized pursuant to the Purchasing Ordinance.
- I.1.4 "Goods and Services" shall be as defined in the King George County Purchasing Ordinance in effect at the time of the execution of this agreement.
- I.1.5 "Work" means initial provision and weekly exchange of medical grade filled aluminum oxygen containers.
- I.1.6 "Contractor" shall mean: _____

I.2 AGREEMENT PERIOD

The term of this AGREEMENT is as follows: October 1, 2011 – July 30, 2014

- I.2.1 Upon mutual consent, COUNTY shall have the option to extend the contract for up to two (2) additional twelve (12) month terms, contingent upon need and availability of funds for this purpose.
- I.2.2 Agreement will renew automatically unless a Notice of Intent to Terminate is issued by either party no less than 90 days prior to the expiration of the current term.

I.3 COMPLIANCE WITH LAWS

CONTRACTOR shall at all times observe and comply with all laws, ordinances and regulations of the federal, state and local government, which may in any manner affect the performance of this Agreement, including, without limitation, the King George County Purchasing Ordinance, the King George County and State of Virginia Building Codes, the King George County Zoning Ordinance, The Standards, Specifications and Regulations of the King George County Service Authority and the Code of Virginia. Copies of the Purchasing Ordinance, the Zoning Ordinance, and COUNTY Code are available for inspection in the Purchasing Office and Department of Community Development.

This AGREEMENT is governed by the applicable provisions of the King George County Purchasing Ordinance, which is incorporated herein by reference. Procedures for Agreement disputes, appeals and protests shall be governed by the Ordinance.

I.4 TAXES

King George County is exempt from excise taxation by virtue of exemption certificate No. 54-0716449. The Purchasing Agent will complete such documents as may be necessary for CONTRACTOR to comply with applicable tax laws and regulations. The price or prices quoted here shall include all other federal and state, direct and indirect taxes which apply.

I.5 NOTICE

All communications and notices provided for herein shall be in writing, delivered personally or by certified mail, to CONTRACTOR by name and address listed on the proposal; to the department head by name and address listed on the cover here and to the Procurement Manager, Suite 201, 10459 Courthouse Drive, King George, VA 22485.

I.6 NONDISCRIMINATION

During the performance of this Agreement, CONTRACTOR agrees as follows:

- I.6.1 CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, creed, age, disability, or any 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 CONTRACTOR. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause
- I.6.2 CONTRACTOR, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, will state that such CONTRACTOR is an equal opportunity employer.
- I.6.3 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.
- I.6.4 CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
- I.6.5 CONTRACTOR will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

I.7 DRUG-FREE WORKPLACE

CONTRACTOR agrees to (i) provide a drug-free workplace for 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 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 CONTRACTOR that CONTRACTOR maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order 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 connection with a specific Agreement awarded to a CONTRACTOR in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

I.8 NO FIREARMS, WEAPONS OR DRUGS

Contractor agrees that no employee or agent of CONTRACTOR of any kind will possess or cause to possess firearms and weapons and alcohol and illegal or controlled substances within 500 feet of King George County property and facilities except as required by private security employed by King George County or official public law enforcement.

1.9 PRICE, PAYMENT, AND SERVICES

I.9.1 Price

The total monthly cost for the goods and services shall not exceed the unit prices quoted in Exhibit 4. CONTRACTOR certifies that it can provide all goods and services under this Agreement for the unit prices quoted or less.

I.9.2.1 Payment

CONTRACTOR shall make monthly applications for payment as computed strictly based upon the unit rates provided in Exhibit 4. COUNTY shall make payment upon review and acceptance of each Application for Payment.

I.9.2.4 Additional Goods, Services, Time and Expenses

When Additional Goods, Services, Time and Expenses are required by the COUNTY, and authorized in writing by the COUNTY, CONTRACTOR will prepare and submit a separate Application for Payment detailing the type, quantity, and cost of Additional Goods, Services, Time and Expenses provided/incurred.

I.10 QUALITY CONTROL AND INSPECTION

- I.10.1 COUNTY, by its Procurement Manager, or any person whom he or she shall designate, shall have a right to inspect any services and products supplied by CONTRACTOR in carrying out this AGREEMENT.
- I.10.2 COUNTY does not assume any responsibility for the availability of any controlled materials or other materials and equipment required under this AGREEMENT.
- I.10.3. CONTRACTOR shall be responsible for the agreed quality and standards of all materials, components or completed work furnished under this AGREEMENT up to the time of final acceptance by COUNTY.
- I.10.4. Completed work not complying with the requirements of this AGREEMENT shall be rejected by the Procurement Manager and shall be corrected by CONTRACTOR at no cost to COUNTY.

I.11 DELIVERIES

Goods and Services shall be completed to the satisfaction of COUNTY by the date specified in this AGREEMENT. Completed services not complying with the requirements of this AGREEMENT will be rejected by the Procurement Manager and shall be corrected by CONTRACTOR at no cost to COUNTY. In case of failure to complete services in accordance with the terms and conditions of this AGREEMENT, COUNTY, after due oral or written notice, may perform the services and have the services performed and hold CONTRACTOR responsible for any resulting additional purchase and administrative costs; provided, that if public necessity requires the use of nonconforming services, they may be accepted and payment shall be made at a reduction in price determined by reasonable price concept. This remedy shall be in addition to any other remedy which COUNTY may have.

I.12 RESPONSIBILITY FOR PROPERTY

CONTRACTOR shall be liable for any loss or destruction of, or damage to, property of COUNTY caused by the negligence or wrongful acts or omissions of CONTRACTOR or CONTRACTOR'S representatives, agents, or employees. Title and risk of loss or damage relating to the services provided by CONTRACTOR shall be the responsibility of CONTRACTOR until final acceptance by COUNTY.

I.13 SECURITY OF COUNTY'S DATA

CONTRACTOR shall not use or disclose to third parties any data, designs, or other information belonging to or supplied by or on behalf of COUNTY, without first obtaining the prior written authorization of COUNTY. Upon COUNTY'S request, such data, designs, or other information, including all copies thereof, shall be returned to COUNTY. Where COUNTY'S data, designs, or other information are furnished to CONTRACTOR'S suppliers for procurement of supplies for use in the performance of COUNTY'S orders, CONTRACTOR shall insert the substance of this provision in its orders.

I.14 ASSIGNMENT AND SET-OFF

No part of this Agreement, nor the Agreement itself may be transferred or assigned to any other party by CONTRACTOR without the express, written consent of COUNTY.

This AGREEMENT shall be binding upon all successors, assigns, employees or other agents of CONTRACTOR. CONTRACTOR shall not delegate any duties, nor assign any rights or claims under this AGREEMENT, without prior written consent of COUNTY (but in no case shall the consent relieve CONTRACTOR from its obligations or change the terms of the AGREEMENT). CONTRACTOR shall not transfer or assign any Agreement funds or claims due or to become due without the written approval of the Purchasing Agent having first been obtained. All claims for monies due or to become due from COUNTY shall be subject to deduction by COUNTY for any set-off or counterclaim arising out of this or any other of COUNTY'S purchase orders with CONTRACTOR, or for any other liquidated debt from CONTRACTOR to COUNTY, whether or not any such assignment is made, and whether such set-off or counterclaim arose before or after any such assignment by CONTRACTOR.

I.15 NON-INFRINGEMENT

To the extent that the services are provided relating to detailed designs not originated and furnished by COUNTY, or by a process or method the use of which is not specifically directed by COUNTY, CONTRACTOR guarantees that the sale or use of such services or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks, trade names, copyrights, or trade secrets, and shall indemnify and save COUNTY and its customers harmless from any expenses, loss, cost, damage, or liability which may be incurred on account of infringement or alleged infringement of patent rights, trademarks, trade names, copyrights, or trade secrets with respect to such services. CONTRACTOR shall defend, at its own expense, any action or claim in which such infringement is alleged, provided CONTRACTOR is notified within a reasonable time of such action or claim against COUNTY. Indemnification shall not apply to infringements arising from use in combination with other items where infringement would not have occurred from the normal use of which the article supplied by CONTRACTOR was designed.

I.16 BANKRUPTCY

In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against CONTRACTOR or in the event of the appointment, with or without CONTRACTOR'S consent, of an assignee for the benefit of creditors or of a receiver, COUNTY shall be entitled to cancel any unfilled part of this AGREEMENT without any liability whatsoever.

I.17 CHOICE OF LAW AND VENUE; NO ARBITRATION OR MEDIATION

This AGREEMENT between the PARTIES evidenced hereby, shall be deemed made in the Commonwealth of Virginia, and shall be construed and interpreted solely in accordance with the laws of Virginia. Venue for any action arising hereunder shall be in the Circuit Court for King George County, Virginia. Nothing under this AGREEMENT shall be subject to arbitration or mediation, and any references to arbitration or mediation are expressly deleted from this AGREEMENT. CONTRACTOR and COUNTY hereby waive any and all rights to arbitration under the laws of Virginia, the United States, or otherwise.

I.18 INDEMNIFICATION

CONTRACTOR shall save, defend, hold harmless and indemnify COUNTY, and all of its officers, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, or exposure, by reason of property damage or personal injury to any person, including CONTRACTOR'S employees, of whatsoever nature or kind to the proportionate extent arising out of, as a result of, or in connection with such performance caused by the negligent actions or omissions of CONTRACTOR, its employees, agents, subcontractors, or representatives. Without in any way limiting the foregoing, CONTRACTOR and its subcontractors shall maintain public liability and property damage insurance as provided in Exhibit 3, and shall maintain Workman's Compensation insurance as required by law covering all employees performing under this AGREEMENT.

I.19 LIMITATION OF LIABILITY

COUNTY'S liability shall be limited to the unpaid balance of amounts due under this AGREEMENT, and in no event shall COUNTY be liable to CONTRACTOR for indirect, incidental, consequential or special damages.

I.20 DEFAULT

COUNTY may, subject to the provisions below, by written notice of default to CONTRACTOR, terminate the whole or any part of this AGREEMENT in any one of the following circumstances:

I.20.1 If CONTRACTOR fails to make delivery of the supplies or to perform the work within the time specified here or any written extension; or

I.20.2 If CONTRACTOR fails to perform any of the other provisions of this AGREEMENT, or so fails to make progress so as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these two circumstances does not cure the failure within a period of ten (10) days (or other such period as the Purchasing Agent may authorize in writing) after receipt of notice from the Purchasing Agent specifying the failure.

In the event COUNTY terminates this AGREEMENT in whole or in part is provided herein, COUNTY may procure, upon the terms and in the manner as the Purchasing Agent may deem appropriate, supplies or services similar to those terminated, and CONTRACTOR shall be liable to COUNTY for any excess costs for such similar supplies or service: provided, that CONTRACTOR shall continue the performance of this AGREEMENT to the extent not terminated under the provisions of this clause.

CONTRACTOR shall not be liable for any excess costs if acceptable evidence has been submitted to and is deemed sufficient by the Purchasing Agent to establish that failure to perform the AGREEMENT was due to causes beyond the control and without the fault or negligence of CONTRACTOR

I.21 TERMINATION FOR THE CONVENIENCE OF COUNTY

This AGREEMENT may be terminated by the Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in COUNTY'S best interest. Any such termination shall be effected by the delivery to CONTRACTOR of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance under the AGREEMENT is terminated and the date upon which such termination becomes effective.

After receipt of a notice of termination and except as otherwise directed CONTRACTOR shall stop all performance, cancel orders for parts and terminate Subcontractor's as of the date specified in the notice; and accept no further orders from COUNTY. However, any authorized work not delivered as of the date of termination shall be delivered as required herein.

I.22 FORCE MAJEURE

CONTRACTOR is not responsible for damages or delay in performance caused by conditions beyond its control including, but not limited to, Acts of God, wars, and natural disasters. In any such event, CONTRACTOR'S fee and schedule shall be equitably adjusted.

I.23 OWNERSHIP & CONFIDENTIALITY OF GOODS AND SERVICES

CONTRACTOR acknowledges that COUNTY will be sole and exclusive owner of all goods and services produced under this AGREEMENT, including but not limited to tangible items, writing, drawings, plans, images, intellectual property and data compilations of any form whatsoever, shall be the exclusive and sole property of COUNTY and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

Further, CONTRACTOR agrees that all information provided to and by COUNTY pursuant to this AGREEMENT is private, confidential and proprietary and shall be the exclusive and sole property of COUNTY and shall not be otherwise reproduced, disclosed or used by CONTRACTOR, elsewhere, for any reason.

I.24 EXCLUSIVITY OF SERVICES/CONFLICT OF INTEREST

During the course of the performance of this Agreement, CONTRACTOR agrees that it will not provide any services, goods and or any other consultation of any kind to any other entity working on this Project, at anytime, including but not limited to the Architects, Engineers, and Builders.

I.25 IMMIGRATION REFORM AND CONTROL ACT OF 1986

CONTRACTOR certifies that they do not and will not during the performance of this Agreement employ illegal alien workers, including subcontractors or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

I.26 OFFICIAL NOT TO BENEFIT

CONTRACTOR certifies that to the best of his knowledge no COUNTY official or employee having official responsibility for the procurement transaction or member of his/her immediate family has received or will receive any financial benefit relating to this AGREEMENT. If such a benefit has been received or will be received, this fact shall be immediately disclosed to COUNTY Procurement Manager. Failure to disclose the information prescribed above may result in rescission of this AGREEMENT, or affect payment pursuant to the terms of the AGREEMENT.

Whenever there is reason to believe that a benefit of the sort described in the paragraph above has been or will be received in connection with this AGREEMENT that CONTRACTOR has failed to immediately disclose, or has inadequately disclosed it, COUNTY as a prerequisite to payment pursuant to CONTRACTOR, or at any time may require CONTRACTOR to furnish, under oath, answers to any interrogatories related to such possible benefit.

I.27 NON-APPROPRIATION

COUNTY shall be bound, hereunder, only to the extent that such funds shall have been appropriated and budgeted and are otherwise available for the purpose of this Agreement. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for payment due under this Agreement, then COUNTY shall immediately notify CONTRACTOR, in writing, of such occurrence and this AGREEMENT shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to COUNTY of any kind whatsoever.

I.28 NO AGENCY RELATIONSHIP

CONTRACTOR is not the agent, subagent or representative of COUNTY; and this AGREEMENT shall not make COUNTY liable to any person, firm, corporation or other who contracts with or provides goods or services to CONTRACTOR in connection with the services it has agreed to perform hereunder or otherwise for debts or claims accruing to such parties against CONTRACTOR and any other person, firm, corporation or other supplying any work, labor, services, goods or materials to CONTRACTOR as a result of its services to COUNTY hereunder or otherwise.

I.29 CERTIFICATION OF AUTHORITY TO TRANSACT BUSINESS IN THE COMMONWEALTH

A Contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

If your authority to transact business is revoked or cancelled at any time during the term of this Agreement the AUTHORITY may void any and all agreements and contracts at any time without notice, set-off or recourse.

I certify that _____ is authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Virginia Code:

Yes/No _____

CONTRACTOR'S identification number issued by the SCC: _____

If you assert that your entity is not required to have such state authorization, state your exception/exemption:

I.30 AGREEMENT MODIFICATION

Pursuant to Virginia law, including Virginia Code Section 2.2-4309, this Agreement may be modified during performance for all purposes allowed by law, as agreed by all parties.

I.31 ANTI-TRUST

By entering into this Agreement, CONTRACTOR conveys, sells, assigns, and transfers to COUNTY all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust law of the United States and Virginia, relating to the particular goods or services purchased or acquired by the COUNTY under this Agreement.

Consistent and continued tie bidding could cause rejection of bids by the Purchasing Agent and investigation for Antitrust violations.

I.32 PAYMENT TO SUBCONTRACTORS:

CONTRACTOR is hereby obligated:

To pay the subcontractor(s) within seven (7) days of CONTRACTOR's receipt of payment from COUNTY for the proportionate share of the payment received for work performed by the subcontractor(s) under this Agreement; or notify COUNTY and the subcontractor(s), in writing, of the CONTRACTOR's intention to withhold payment and the reason.

CONTRACTOR is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of this Agreement on all amounts owed by CONTRACTOR that remain unpaid seven (7) days following receipt of payment from COUNTY, except for amounts withheld as stated above.

The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under this Agreement.

CONTRACTOR's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of COUNTY.

I.33 QUALIFICATIONS OF BIDDERS OR OFFERORS

COUNTY may make such reasonable investigations as deemed proper and necessary to determine the ability of CONTRACTOR to perform the work and furnish the goods under this Agreement and CONTRACTOR shall furnish to COUNTY all such information and data for this purpose as may be requested.

COUNTY reserves the right to inspect CONTRACTOR's physical facilities to satisfy questions regarding CONTRACTOR's capabilities.

COUNTY reserves the right to reject any bid or proposal if the evidence submitted by or investigations of, such CONTRACTOR fails to satisfy the COUNTY that such CONTRACTOR is properly qualified to carry out the obligations of this Agreement

I.34 DEBARMENT

By submitting their bids or proposals and entering into this Agreement, CONTRACTOR certifies that it is not currently debarred from submitting bids or proposals on contracts by any agency of County or state, nor are they an agent of any person or entity that is currently debarred from submitting bids or proposals on contracts by any agency of COUNTY or state.

In the event that CONTRACTOR becomes debarred during the term of this Agreement, such shall be an event of Default.

I.35 CONTRACTOR REGISTRATION

If this Agreement involves construction, removal, repair or improvement of a building or other real property, CONTRACTOR is required under Title 54, Code of Virginia (1950), as amended from time-to-time, to be licensed by the State Board of Contractors under the appropriate CLASS.

Licensed Class A Virginia Contractor No. : _____

Licensed Class B Virginia Contractor No.: _____

I.36 PRIME CONTRACTOR RESPONSIBILITIES

CONTRACTOR shall be responsible for completely supervising and directing the work under this Agreement and all subcontractors that he may employ.

Subcontractors who perform work under this contract shall be responsible to CONTRACTOR.

CONTRACTOR agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

I.37 WARRANTY

All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of sixty (60) days following date of the delivery. Should any defect be noted by the owner, the Purchasing Office will notify CONTRACTOR of such defect or non-conformance.

Notification will state either (1) that CONTRACTOR shall replace or correct, or (2) COUNTY does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If CONTRACTOR is required to correct or replace, it shall be at no cost to COUNTY and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If CONTRACTOR fails or refuses to replace or correct the deficiency, the office issuing the purchase order may have the materials corrected or replaced with similar items and charge CONTRACTOR the costs occasioned thereby or obtain an equitable adjustment in the contract price.

CONTRACTOR agrees that the supplies or services furnished under this Agreement shall be covered by the most favorable commercial warranties CONTRACTOR gives any customer for such supplies or services and that the rights and remedies provided therein are in addition to and do not limit those available COUNTY.

A copy of this warranty must be furnished with the executed Agreement

I.38 WORK SITE DAMAGES

Any damage, including damage to finished surfaces, resulting from the performance of this Agreement shall be repaired to COUNTY's satisfaction at CONTRACTOR's expense.

I.39 WARRANTY OF MATERIALS AND WORKMANSHIP

CONTRACTOR warrants that, unless otherwise specified, all materials and equipment incorporated in the work under this Agreement shall be new, first class, and in accordance with the Agreement Documents. CONTRACTOR further warrants that all workmanship shall be first class and in accordance with Agreement Documents and shall be performed by persons qualified in their respective trades.

Work not conforming to these warranties shall be considered defective.

This warranty of materials and workmanship is separate and independent from and in addition to any other guarantees in this Agreement.

I.40 USE OF PREMISES AND REMOVAL OF DEBRIS

CONTRACTOR expressly undertakes, either directly or through its subcontractors:

- (1) To perform this Agreement in such a manner as not to interrupt or interfere with the operation of any existing activity on the premises or at the location of the work;
- (2) To store its apparatus, materials, supplies, and equipment in such orderly fashion at the site of the work as will not unduly interfere with progress of its work or the work of COUNTY or any other Contractor; and
- (3) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
- (4) To effect all cutting, filling or patching of its work required to make the same conform to the plans and specifications, and except with the consent of the Project Inspector, not to cut or otherwise alter the work of any other Contractor.
- (5) CONTRACTOR shall not damage or endanger any portion of the work by cutting, patching or otherwise altering any work, or by excavation.

I.41 PROTECTION OF PERSONS AND PROPERTY

CONTRACTOR expressly undertakes both directly and through its subcontractors, to take every precaution at all times for the protection of persons and property, including COUNTY's employees and property and its own.

CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.

CONTRACTOR shall continuously maintain adequate protection of all work from damage and shall protect COUNTY's property from injury or loss arising in connection with this Agreement.

CONTRACTOR shall make good any such damage, injury or loss, except such as may be directly due to errors in the Agreement Documents or caused by agents or employees of COUNTY. CONTRACTOR shall adequately protect adjacent property as provided by law and the Agreement Documents, and shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority, local conditions, or any of the Agreement Documents.

In an emergency affecting the safety or life of individuals, or of the work or of adjoining property, CONTRACTOR, without special instruction or authorization from the COUNTY, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury. Also, should CONTRACTOR to prevent threatened loss or injury, be instructed or authorized to act by COUNTY, he shall so act, without appeal. Any additional compensation or extension of time claimed by CONTRACTOR on account of any emergency work shall be determined as provided in the Agreement.

I.42 FELONY CONVICTION

CONTRACTOR acknowledges and certifies that all employees of CONTRACTOR and sub-contractors performing work on school division property or property being used by the school division are not convicted of a felony or any offense involving the sexual molestation, physical or sexual abuse or rape of a child. The contractor further acknowledges and certifies that it understands that allowing any person subject to the direct or indirect control of CONTRACTOR to perform work or enter on school division property if such person has been convicted of such a crime constitutes a breach of contract and may result in default action being taken by COUNTY in addition to any criminal penalties that may result from such conduct.

I.43 PRICE ESCALATION/DE-ESCALATION

Price adjustments may be permitted for changes in CONTRACTOR's cost of materials not to exceed the increase in the following index indices: CPI-W: U.S. city average, by expenditure category and commodity and service group- Information technology, hardware and services (1) (5). No price increases will be authorized for three hundred and sixty five (365) calendar days after the effective date of this Agreement. Price escalation may be permitted only at the end of this period and each 365 days hereafter and only where verified to the satisfaction of the purchasing office. However, "across the board" price decreases are subject to implementation at any time and shall be immediately conveyed COUNTY.

CONTRACTOR shall give not less than thirty (30) days advance notice of any price increase to the purchasing office.

Any approved price changes will be effective only at the beginning of the calendar month following the end of the full thirty (30) day notification period. CONTRACTOR shall document the amount and proposed effective date of any general change in the price of materials. Documentation shall be supplied with the contractor's request for increase which will: (1) verify that the requested price increase is general in scope and not applicable just to COUNTY; and (2) verify the amount or percentage of increase which is being passed on to the contractor by the contractor's suppliers.

The purchasing office will notify the using agencies and CONTRACTOR in writing of the effective date of any increase which it approves. However, CONTRACTOR shall fill all purchase orders received prior to the effective date of the price adjustment at the old contract prices. The contractor is further advised that decreases which affect the cost of materials are required to be communicated immediately to the purchasing office.

I.44 QUANTITIES

Quantities set forth in this solicitation are estimates only, and CONTRACTOR shall supply at bid prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown.

**EXHIBIT 2
CERTIFICATE OF INSURANCE
(Attach Following This Page)**

EXHIBIT 3
REQUEST FOR QUOTE #09282011-1400
(Attach Following This Page)

EXHIBIT 4
_____'S QUOTE DATED _____
(Attach Following This Page)