

CONTRACT DOCUMENTS

**CITY OF LINCOLN, NEBRASKA,
LANCASTER COUNTY,
CITY OF LINCOLN - LANCASTER COUNTY
PUBLIC BUILDING COMMISSION**

**Annual Supply
Household Miscellaneous Batteries
Quote No. 5909**

**AV Associates of Nebraska
14845 N 2nd Street
Raymond, NE 68428
(402) 783-0270**

**CITY OF LINCOLN-LANCASTER COUNTY, NEBRASKA and
LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION
CONTRACT TERMS**

THIS CONTRACT, made and entered into by and between **AV Associates of Nebraska, 14845 N 2nd Street, Raymond, NE 68428**, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, and the Lincoln-Lancaster County Public Building Commission hereinafter called the "Owners".

WHEREAS, the Owners have caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

Household Miscellaneous Batteries, Quote No. 5909

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the Owners, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the Owners, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the Owners have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the Owners' award of this Contract to the Contractor, such award being based on the acceptance by the Owner of the Contractor's Proposal, or part thereof, as follows:

Agreement to full proposal

2. The Owners agree to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the Owners:

The Owners will pay for products/service, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. The Owners shall order on an as-needed basis for the duration of the contract. The cost of products or services for City Departments shall not exceed \$21,000.00 during the contract term without approval the City of Lincoln. The cost of products or services for County Agencies shall not exceed \$2,000.00 during the contract term without approval by the Board of Commissioners. The cost of products or services for the Public Building Commission shall not exceed \$500.00 during the contract term without approval by the Board of the Public Building Commission.

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.
4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
 - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
 - 5.2) Termination for Cause. The Owners may terminate the Contract for cause if the Contractor:
 - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
 - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
 - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the Owners will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the Owners and employees of the Owners shall not be deemed to be employees of the Contractor. The Contractor and the Owners shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the Owners' employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Owner Inclusion. It is understood and agreed by all parties that "Owner/s" shall include the City of Lincoln, Lancaster County, Nebraska and Lincoln-Lancaster County Public Building Commission. Whenever in the Contract documents, including the instructions to bidders, specifications, insurance requirements, bonds, and terms and conditions or any other documents which are a part of the Contract, a singular entity is referenced (i.e., "the City" or "the County" or "Building Commission") it shall mean the "Owners" encompassing the City of Lincoln, Lancaster County and Lincoln-Lancaster County Building Commission. Notwithstanding the foregoing, the duties and obligations of the City, the County, and the Building Commission pursuant to the Contract shall be treated as divisible and severable duties and obligations, and default by any one of the City, the County, or the Building Commission shall not be attributed to any other of the Owners, but shall remain the sole obligation of the defaulting entity.

8. Audit Provision: The Contractor shall be subject to an audit and shall, upon request, make available to the Public Building Commission or a contract auditor hired by the Public Service Commission, copies of all financial and performance related records and materials related to this Agreement, as allowed by law.
9. Period of Performance. This Contract shall be effective upon execution by all parties. The term of the Contract shall be a one (1) year term with the option to renew for three (3) additional one (1) year terms.
10. Notwithstanding anything contrary to the Contract Terms, the attached documents comprise the Contract, and consist of the following:
 1. Contract Terms
 2. Accepted Proposal/Response
 3. Addendums 1 & 2
 4. Special Provisions
 5. Instructions to Bidders
 6. Proprietary Information for Bids/Quotes/RFP's
 7. Sales Tax Exemption Form 13(Note: This form cannot be used for the WATER Division of the City of Lincoln. The WATER Division is taxable per Reg. 066.14A or applicable laws.)

The herein above mentioned Contract Documents form this Contract and are a part of the Contract as if hereto attached. Said documents which are not attached to this document may be viewed at: lincoln.ne.gov - Keyword: Bid - Awarded or Closed bids.

The Contractor and the Owners hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the Owners do hereby execute this contract upon completion of signatures on:

Vendor Signature Page
City of Lincoln Signature Page
Lancaster County Signature Page
City of Lincoln-Lancaster County Public Building Commission Signature Page

Vendor Signature Page

**CONTRACT
Annual Supply
Household Miscellaneous Batteries
Quote No. 5909
City of Lincoln, Lancaster County and
Lincoln-Lancaster County Public Building Commission
AV Associates of Nebraska**

EXECUTION BY CONTRACTOR

IF A CORPORATION:

Attest:

Secretary Seal

Name of Corporation

Address

By: _____
Duly Authorized Official

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

AV Associates of Nebraska
Name of Organization

Sole-Proprietorship
Type of Organization

14845 N. 2nd Street
Address Raymond, NE 68428

By: Tim McPherson - Owner
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Tim McPherson
Signature

City of Lincoln Signature Page

**CONTRACT
Annual Supply
Household Miscellaneous Batteries
Quote No. 5909
City of Lincoln, Lancaster County and
Lincoln-Lancaster County Public Building Commission
AV Associates of Nebraska**

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

City Clerk

CITY OF LINCOLN, NEBRASKA

Finance Director

Approved by Directorial Order No. _____

dated _____

Lancaster County Signature Page

CONTRACT
Annual Supply
Household Miscellaneous Batteries
Quote No. 5909
City of Lincoln, Lancaster County and
Lincoln-Lancaster County Public Building Commission
AV Associates of Nebraska

EXECUTION BY LANCASTER COUNTY, NEBRASKA

Contract Approved as to Form:

The Board of County Commissioners of
Lancaster, Nebraska

Deputy Lancaster County Attorney

dated _____

**Lincoln-Lancaster County Public Building Commission
Signature Page**

**CONTRACT
Annual Supply
Household Miscellaneous Batteries
Quote No. 5909
City of Lincoln, Lancaster County and
Lincoln-Lancaster County Public Building Commission
AV Associates of Nebraska**

EXECUTION BY LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION

ATTEST:

Public Building Commission Attorney

Chairperson, Public Building Commission

dated _____

City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information
Bid Creator	Rachelle Hinze Buyer	Address	Purchasing	Address
Email	rhinze@lincoln.ne.gov		440 S. 8th St.	
Phone	1 (402) 441-8313 x		Lincoln, NE 68508	
Fax	1 (402) 441-6513 x	Contact	Rachelle Hinze, Buyer	Contact
			Purchasing	
Bid Number	5909 Addendum 2	Department		Department
Title	Annual Supply of Household Miscellaneous Batteries	Building	Suite 200	Building
Bid Type	Quote	Floor/Room		Floor/Room
Issue Date	9/11/2018 01:57 PM (CT)	Telephone	(402) 441-8313 x	Telephone
Close Date	9/18/2018 03:00:00 PM (CT)	Fax	(402) 441-6513 x	Fax
		Email	rhinze@lincoln.ne.gov	Email

Supplier Information

Company AV Associates of Nebraska
 Address 14845 N 2nd Street
 Raymond, NE 68428
 Contact Tim McPherson
 Department
 Building
 Floor/Room
 Telephone (402) 783-0270
 Fax
 Email tim@avaneb.com
 Submitted 9/18/2018 12:34:24 PM (CT)
 Total \$112,004.74

By submitting your response, you certify that you are authorized to represent and bind your company.

Signature Tim McPherson

Email tim@avaneb.com

Supplier Notes

Bid Notes

Added Addendum 2

Bid Activities

Bid Messages

Bid Attributes

Please review the following and respond where necessary

#	Name	Note	Response
1	U.S. Citizenship Attestation	<p>Is your company legally considered an Individual or Sole Proprietor: YES or NO</p> <p>As a Vendor who is legally considered an Individual or a Sole Proprietor I hereby understand and agree to comply with the requirements of the United States Citizenship Attestation Form, available at: http://www.sos.ne.gov/business/notary/citizenforminfo.html</p> <p>All awarded Vendors who are legally considered an Individual or a Sole Proprietor must complete the form and submit it with contract documents at time of execution.</p> <p>If a Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.</p> <p>Vendor further understands and agrees that lawful presence in the United States is required and the Vendor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. 4-108.</p>	YES
2	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
3	Bid Documents	I acknowledge and accept that it is my responsibility as a Bidder to promptly notify the Purchasing Department Staff prior to the close of the bid of any ambiguity, inconsistency or error which I may discover upon examination of the bid documents including, but not limited to the Specifications.	Yes
4	Special Provision Term Contract Provisions	I acknowledge reading and understanding the Special Provision Term Contract Provisions.	Yes
5	Sample Contract	I acknowledge reading and understanding the sample contract.	Yes
6	Term Clause of Contract	<p>I acknowledge that the term of the contract is for a one (1) year term with the option for three (3) additional one (1) year renewals from the date of the executed contract.</p> <p>. ((a) Are your bid prices firm for the first one (1) year contract period. YES or NO</p> <p>(b) Are your bid prices subject to escalation/de-escalation YES or NO</p> <p>(c) If (b), state period for which prices will remain firm: through _____</p>	A YES B YES C 9-30-2019
7	Delivery and/or Pick Up	Delivery of batteries shall be within 24 hours of order. Delivery shall be FOB to any City/County departments at the location specified when ordered with all transportation charges paid. If awarded vendor is within City limits employee may walk-in and purchase batteries off this contract.	yes
8	Quantities	I acknowledge that the quantities listed for each line item are an estimated amount. The City/County does not guarantee any dollar amount or order quantities for the term of the contract.	Y

9	Battery Types	I acknowledge the bid contains multiple brands of batteries. These line items will give the departments a variety of brands to choose from as an option. Not all types of batteries will be purchased during the term of the contract.	Yes
10	Bid award	I acknowledge and understand that the City, County and/or Public Building Commission reserves the right to award bids item-by-item, with or without alternates/options, by groups, or "lump sum" such as shall best serve the requirements and interests of the City, County and/or Public Building Commission. If your pricing is based on an all-or-nothing basis, please indicate so in the Supplier Notes section of your E-Bid response. Bid may be awarded to multiple vendors.	Yes
11	Delivery	State number of delivery days ARO. FOB to the City/County at the location specified with all transportation charges paid.	7-10 business days from first order 1 day turnaround after that
12	Contact	Name of person submitting this bid:	Tim McPherson
13	Electronic Signature	Please check here for your electronic signature.	Yes
14	Agreement to Addendum No. 1	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes
15	Agreement to Addendum No. 2	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes

Line Items

#	Qty	UOM	Description	Response
1	12	EA	Energizer Alkaline MAX 529 6 Volt Lantern Battery with Spring Terminals	\$9.23

Item Notes: Unit price is per each

Supplier Notes:

Alt 1	12	EA	Alt Spec: EN529	6.13
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Alt Manufacturer: Energizer Alt Manufacturer #: EN529

Item Notes: Unit price is per each

Supplier Notes:

2	30	EA	Energizer 357/303 Button/Coin Cell Battery Silver Oxide	\$1.48
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Item Notes: Unit price is per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 2 pk		2.96

3	545	2 Pack	Energizer Alkaline MAX 9V Battery	\$7.27
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Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 6 pk		\$21.81
2	List your price for a box of 12		\$43.62

4	2,125	8 Pack	Energizer Alkaline MAX AA Battery	\$6.84
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Item Notes: Unit price 8 pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 24 pk		\$19.10

5 1,025 8 Pack Energizer Alkaline MAX AAA Battery \$6.84

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 20 pk		15.89

6 265 4 Pack Energizer Alkaline MAX C Battery \$7.33

Item Notes: Unit price 4 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for a blister 12 pk		\$20.76
2	List your price for a box of 12		\$20.76

7 190 2 Pack Energizer Alkaline MAX D Battery \$3.76

Item Notes: Unit price 2 pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 4 pk		\$7.52
2	List your price for 6 pk		\$11.10
3	List your price for a blister 12 pk		\$22.20
4	List your price for a box of 12		\$22.20

8 15 EA OPTIONAL - Energizer Lithium CR2032 Coin Battery \$0.54

Item Notes: Unit price is per each

Supplier Notes:

9 100 EA OPTIONAL - Energizer Lithium 3 Volt Button Top Photo Battery \$1.92

Manufacturer #: CR123A

Item Notes: Unit price is per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 2 pk		3.84
2	CR123A HiDrain Battery	List your price for 2 pack and your box sizes with pricing.	Do not carry the High Drain

10 545 2 Pack OPTIONAL - Energizer Ultimate Lithium 9V Battery \$17.38

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 6 pk		\$54.96
2	List your price for a box of 12		\$109.92

11 2,125 8 Pack OPTIONAL - Energizer Ultimate Lithium AA Battery \$10.60

Item Notes: Unit price 8 pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 24 pk		\$31.80

12 1,025 8 Pack OPTIONAL - Energizer Ultimate Lithium AAA Battery \$13.17

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 20 pk		\$32.80

15 12 EA OPTIONAL - Ray-O-Vac Heavy Duty Alkaline 944 6V Lantern Battery with Spring Terminals \$2.16

Item Notes: Unit price is per each

Supplier Notes:

16 30 EA OPTIONAL - Ray-O-Vac Silver Oxide 357/303 Button Battery \$0.98

Item Notes: Unit price is per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 2 pk		\$1.88

17 545 2 Pack OPTIONAL - Ray-O-Vac UltraPro Alkaline 9V Battery \$2.00

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 6 pk		\$6.00
2	List your price for a box of 12		\$12.00

18 2,125 8 Pack OPTIONAL - Ray-O-Vac UltraPro Alkaline AA Battery \$2.18

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 24 pk		\$6.56

19 1,025 8 Pack OPTIONAL - Ray-O-Vac UltraPro Alkaline AAA Battery \$2.27

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 20 pk		6.82

20 265 4 Pack OPTIONAL - Ray-O-Vac UltraPro Alkaline C Battery \$2.20

Item Notes: Unit price 4 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for a blister 12 pk		\$6.69
2	List your price for a box of 12		\$6.75

21 190 2 Pack OPTIONAL - Ray-O-Vac UltraPro Alkaline D Battery \$1.44

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 4 pk		\$2.88
2	List your price for 6 pk		\$4.44
3	List your price for a blister 12 pk		\$8.84
4	List your price for a box of 12		\$8.88

22 100 EA OPTIONAL - Ray O Vac Lithium 3 Volt Button Top Photo Battery \$1.93

Manufacturer #: CR123A

Item Notes: Unit price is per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 2 pk		\$3.86
2	CR123A HiDrain Battery	List your price for 2 pack and your box sizes with pricing	\$3.86

23 12 EA OPTIONAL - Ray-O-Vac Lithium 6V Lantern Battery \$4.42

Item Notes: Unit price is per each

Supplier Notes:

24 545 2 Pack OPTIONAL - Ray-O-Vac Lithium 9V Battery \$10.22

Manufacturer #: R9VL

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 6 pk		\$30.66

2	List your price for a box of 12		\$61.39
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25 2,125 8 Pack OPTIONAL - Ray-O-Vac Lithium AA Battery No Bid

Manufacturer #: 123A

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 24 pk		

26 1,025 8 Pack OPTIONAL - Ray-O-Vac Lithium AAA Battery No Bid

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 20 pk		

29 12 EA OPTIONAL - Duracell Alkaline 6V Lantern Battery \$5.79

Item Notes: Unit price is per each

Supplier Notes:

30 100 EA OPTIONAL - Duracell Alkaline 3 Volt Button Top Battery \$1.93

Manufacturer #: CR123A

Item Notes: Unit price is per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 2 pk		2.86

2	CR123A HiDrain Battery	List your price for 2 pack and your box sizes with pricing.	Do Not Carry
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31 30 EA OPTIONAL - Duracell 357/303 Button/Coin Cell Silver Oxide Battery \$0.96

Item Notes: Unit price is per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 2 pk		1.92

32 545 2 Pack OPTIONAL - Duracell Coppertop Alkaline 9V Battery \$6.46

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 6 pk		\$19.38
2	List your price for a box of 12		\$38.76

33 2,125 8 Pack OPTIONAL - Duracell Coppertop Alkaline AA Battery \$4.72

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 24 pk		\$14.16

34 1,025 8 Pack OPTIONAL - Duracell Coppertop Alkaline AAA Battery \$4.72

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 20 pk		11.80

35 265 4 Pack OPTIONAL - Duracell Coppertop Alkaline C Battery \$6.48

Item Notes: Unit price 4 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for a blister 12 pk		\$19.68
2	List your price for a box of 12		19.68

36 190 2 Pack OPTIONAL - Duracell Coppertop Alkaline D Battery \$3.28

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 4 pk		6.48
2	List your price for 6 pk		9.84
3	List your price for a blister 12 pk		\$19.68
4	List your price for a box of 12		\$19.68

37 12 EA OPTIONAL - Duracell Ultra Lithium 223 6V Lantern Battery \$8.90

Manufacturer #: CR-P2

Item Notes: Unit price is per each

Supplier Notes:

38 545 2 Pack OPTIONAL - Duracell Lithium 9V Battery No Bid

Item Notes: Unit price 2 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	List your price for 6 pk		
2	List your price for a box of 12		

39 2,125 8 Pack OPTIONAL - Duracell Lithium AA Battery No Bid

Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
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1	List your price for 24 pk		
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40	1,025	8 Pack	OPTIONAL - Duracell Lithium AAA Battery	No Bid
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Item Notes: Unit price 8 Pack

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
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1	List your price for 20 pk		
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43	4	EA	AlphaCell 220GXL silver alloy gel insert terminal, 12V 109Ah	\$394.21
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Item Notes:

Supplier Notes:

44	100	Each	OPTIONAL - Duracell Coppertop HP Lithium CR123 Button Top Battery	\$5.07
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Manufacturer #: CR123

Item Notes: Unit price per each

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
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1	List your price for 2 pk		10.14
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2	123 HiDrain Battery	List your price for 2 pack and your box sizes with pricing.	Do not carry
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Response Total:	\$112,004.74
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ADDENDUM #1
Issue Date:
9/11/2018
Bid No. 5909
Annual Supply of Household
Miscellaneous Batteries

Addenda are instruments issued by the Purchasing Department prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

1. An attribute has been added under each line item for the C, D and 9Volt Batteries for a price per box of 12.
2. All batteries are blister pack.

END OF ADDENDA NO. 1

All other terms, conditions and requirements of the request remain the same as originally indicated in the document or as modified on previous addenda.

Rachelle Hinze,
Buyer

ADDENDUM #2
Issue Date:
9/12/2018
Bid No. 5909
Annual Supply of Household
Miscellaneous Batteries

Addenda are instruments issued by the Purchasing Department prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Bid is extended to Tuesday, September 18, 2018 at 3:00pm.

1. Line 9, 22 & 30 model requested is CR123A. Line 44 was added for the Duracell style battery.
2. The word Ion has been removed from the line items.
3. Additional description information has been added in some line items.
4. All Lithium C & D batteries have been deleted.

END OF ADDENDA NO. 2

All other terms, conditions and requirements of the request remain the same as originally indicated in the document or as modified on previous addenda.

Rachelle Hinze,
Buyer

**SPECIAL PROVISIONS
FOR
TERM CONTRACTS**

**PURCHASING DEPARTMENT
CITY OF LINCOLN/LANCASTER COUNTY, NEBRASKA**

1. ESTIMATED QUANTITIES

- 1.1 The quantities set forth in the line items and specification document are approximate and represent the estimated requirements for the contract period.
- 1.2 Items listed may or may not be an inclusive requirements for this category.
- 1.3 Category items not listed, but distributed by bidder are to be referred to as kindred items. Kindred items shall receive the same percentage of discount or pricing structure as items listed in the specification document.
- 1.4 The unit prices and the extended total prices shall be used as a basis for the evaluation of bids. The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the City/County shall be neither obligated nor limited to any specified amount. If possible, the Owners will restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

2. CONTRACT PERIOD

- 2.1 The material shall be delivered as ordered during the contract period, beginning from the date of contract execution and ending as indicated in the specifications or in the Attribute Section of the bid.
- 2.2 Bidder must indicate in the Bid, if extension renewals are an option.
- 2.3 By mutual consent of both parties it is understood and agreed that the contract may be renewed at the same prices and/or under the same conditions governing the original contract.

3. BID PRICES

- 3.1 Bidders must state in the Attribute Section if the bid prices will remain firm for the full contract period; or if the bid prices will be subject to escalation/de-escalation.
- 3.2 Escalation/De-escalation Clause: In the event that prevailing market conditions warrant an adjustment in bid prices contained in the contract, the following escalation/de-escalation clause shall be the only clause applicable or acceptable:
 1. Contractor shall give written notice to the Purchasing Agent of any proposed changes from contract prices not less than thirty (30) calendar days prior to the effective date of said price changes.
 2. Such notice must be accompanied by a certified copy of the supplier's advisory or notification to the contractor of price changes.
 3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
 4. Purchasing shall issue a contract Addendum with revised pricing upon receipt and approval. The Addendum will be executed by both parties for the remaining term of the contract.
 5. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
 6. Approved price changes are not applicable to orders already issued and in process at time of price change.

7. Purchasing reserves the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.

8. The Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interests of the City/County.

9. If in the opinion of the Purchasing Agent any proposed increase is found unacceptable, the Purchasing Agent reserves the right to cancel the contract upon thirty (30) calendar days written notice.

10. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Contractor will put the Purchasing Agent on the mailing lists for such publication so that the Purchasing Agent can monitor said changes. Such membership will be no cost to the Owners.

4. CONTRACT ADMINISTRATION

- 4.1 The Purchasing Division will issue a Contract to all successful bidders. Such contract will incorporate the specifications and all other forms used during the bid process.
- 4.2 Orders for materials will be made as needed by the various Agencies following execution by all parties.
- 4.3 Contractor may be asked to assist the Purchasing Agent with the development of a list of repetitively purchased commodities, to periodically update such list, and to assist in the development of a list of suitable substitutions.
- 4.4 Contractor shall provide technical advice upon request, and assist in the evaluation of new products.
- 4.5 Contractor shall monitor orders to ensure the highest possible fill rate and minimize back-orders.

5. QUARTERLY REPORT

- 5.1 Upon request, the contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.
- 5.2 Such quarterly report shall itemize the following information:
 1. Each ordering department.
 2. Items and quantities purchased by department.
 3. Total dollar amount of purchases by department.

INSTRUCTIONS TO BIDDERS

City of Lincoln, Nebraska, County of Lancaster, Public Building Commission

E-Bid

1. BIDDING PROCEDURE

- 1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the City of Lincoln, Lancaster County and Building Commission, hereafter referred to as "Owners" the materials, supplies, equipment or services shown in the electronic bid request.
- 1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields. If you do not care to bid, please respond to the bid request and note your reason.
- 1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.
- 1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Bids received after the time and date established for receiving bids will be rejected.
- 1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.
- 1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2011 shall apply.
 - 1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.
 - 1.7.2 Said document can be reviewed at Design Engineering or the office of the Purchasing Division.
 - 1.7.3 Said document is available on the web site.
<http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stdnspec/index.htm>

2. BID SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated on the bid.
 - 2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Office at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 to be received within three (3) days of bid closing.
 - 2.1.2 If bid security is not received in the Office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.
- 2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful Bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the Owners.
 - 2.4.2 For all other contracts: upon approval by the Owners of the executed contract and bonds.
- 2.5 Owners shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.
- 2.6 Bid security will be forfeited to the Owners as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:
 - 2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided by the Owners, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

3. BIDDER'S REPRESENTATION

- 3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

4. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 4.2 Bidders desiring clarification or interpretation of the specification documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.
- 4.3 Changes made to the specification documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.
- 4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on the Owners; and Bidders shall not rely upon such interpretations or changes.

5. ADDENDA

- 5.1 Addenda are instruments issued by the Owners prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.
- 5.3 No formal bid addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. ANTI-LOBBYING PROVISION

- 7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with any member of the City or County staff or officers except in the course of Owner sponsored inquiries, briefings, interviews, or presentations, unless requested by the Owners.

8. BRAND NAMES

- 8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the Owners that said item is equal to, or better than, the product specified.
- 8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.
- 8.4 The Bidder must indicate any variances by item number from the specification document no matter how slight.
- 8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with the Owners' bidding documents.

9. DEMONSTRATIONS/SAMPLES

- 9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the Owners.
- 9.2 Such demonstration can be at the Owners delivery location or a surrounding community.
- 9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the Owners of acceptable goods. The Bidder must indicate how samples are to be returned.

10. DELIVERY (Non-Construction)

- 10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.
- 10.2 The Owners reserve the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.
- 10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. the Owners at the location specified by the Owners, with all transportation charges paid.
- 10.4 At the time of delivery, a designated Owner employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

- 11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid::
- 11.1.1 Manufacturer's warranties and/or guarantees.
 - 11.1.2 Bidder's maintenance policies and associated costs.
- 11.2 As a minimum requirement of the Owners, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the Owners. Replacement parts of defective components shall be shipped at no cost to the Owners. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

- 12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 12.2 Material delivered under this proposal shall remain the property of the Bidder until:
- 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to the Owners; and
 - 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted proposal.
- 12.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, the Owners reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.
- 12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the Owner, as required by the specification documents or purchase orders.
- 12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

- 13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by the Owners of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.
- 13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to the Owners, and as the Owners deem will best serve the requirements and interests of the Owners.
- 13.5 The Owners reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of the Owners.
- 13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the Owners. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 13.7 The Owners reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the Bid Proposal incomplete, indefinite or ambiguous.
- 13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

- 14.1 The Bidder shall indemnify and hold harmless the Owners from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the Owners for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the Owners.
- 14.2 In any and all claims against the Owners or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, the Owners will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this proposal and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statutes Section 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln-Lancaster County provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. INSURANCE

19.1 All Bidders shall take special notice of the insurance provisions required for all City/County and Building Commissions contracts (see *Insurance Requirements for City, County, Building Commission*).

20. EXECUTION OF AGREEMENT

20.1 Depending on the type of service and commodity provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

a. **PURCHASE ORDER**, unless otherwise noted.

1. This Contract shall consist of a City of Lincoln, Lancaster County and City-County Public Building Commission Purchase Order.
2. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.

b. **CONTRACT**, unless otherwise noted.

1. City, County and City-County Public Building Commission will furnish copies of a Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
3. The City, County and City-County Public Building Commission will sign and date the Contract.
4. Upon approval and signature, the City, County and City-County Public Building Commission will return one copy to the successful Bidder.

21. TAXES AND TAX EXEMPTION CERTIFICATE

21.1 The Owners are generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

22.2 The Water Division of the City of Lincoln is taxable per Reg. 066.14A and no exemption certificate will be issued.

22. CITY AUDIT ADVISORY BOARD

22.1 All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

23. **E-VERIFY**

23.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

In furtherance of Neb. Rev. Stat. §84-712 et seq., all proposals or responses received may be subject to a public records request. Responses to public records requests may include the entire proposal or response. Bidders must request that proprietary information be excluded from the posting. The bidder must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously in black ink with the words "PROPRIETARY INFORMATION". The bidder must submit a detailed written showing that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992) THE BIDDER MAY NOT ASSERT THAT THE ENTIRE PROPOSAL IS PROPRIETARY. COST PROPOSALS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA. The City and/or County will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure. (See Neb. Rev. Stat. § 84-712.05(3)) The Bidder will be notified of the agency's decision. Absent a City and/or County determination that information is proprietary, the City and/or County will consider all information a public record subject to release regardless of any assertion that the information is proprietary. If the agency determines it is required to release proprietary information, the bidder will be informed. It will be the bidder's responsibility to defend the bidder's asserted interest in nondisclosure. To facilitate such public postings, with the exception of proprietary information, the City of Lincoln and/or Lancaster County reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a proposal or response to this bid/RFP, specifically waives any copyright or other protection the contract, proposal, or response to the bid/RFP may have; and, acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP, and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the bid/RFP being found nonresponsive and rejected. Any entity awarded a contract or submitting a proposal or response to the bid/RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the City and/or County and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the City and/or County, arising out of, resulting from, or attributable to the releasing of the contract or the proposals and responses to the RFP, awards, and other documents in accordance with the state public records laws.