

Office of University Services
Purchasing Department
1700 "Y" Street
Lincoln, Nebraska 68588

October 23, 2009
Request for Proposals #918629

SNOW & ICE CONTROL SERVICES
UNL - INNOVATION CAMPUS

KEY DATES AND TIMES

October 23, 2009 Bids Sent To Vendors

November 3, 2009 MANDATORY Pre-Bid Meeting
10:00 AM local time
University of Nebraska
Purchasing Department – Conference Room
1700 "Y" Street, Lincoln, Nebraska

November 6, 2009 Last Day Vendors Can Ask Questions

November 9, 2009 Last Day UNL Will Respond To Questions

November 13, 2009 Bid Due Date - 2:00 P.M. Central Time

Requests for reasonable accommodations needed in order to participate in the process described in this RFP may be directed to the Office of Equity, Access & Diversity, 128 Canfield Administration; phone- (402) 472-2322; Voice/TDD-(402) 472-3417.

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1.1 SIGNATURE PAGE
UNIVERSITY OF NEBRASKA-LINCOLN
Office of University Services
Purchasing Department
1700 "Y" Street
Lincoln, Nebraska 68588-0645

PROPOSAL IN RESPONSE TO SNOW & ICE CONTROL SERVICES
UNL – INNOVATION CAMPUS

The undersigned authorized officer of the bidder firm represents that the bidder has carefully examined the specifications and conditions contained in the RFP. The bidder fully understands the type and quality of service(s) and/or other consideration sought by the University of Nebraska-Lincoln and hereby proposes to furnish such in accordance with the Proposal accompanying this cover sheet.

The bidder acknowledges its receipt of addenda numbered ____ through ____ and further agrees that the provisions of such addenda, as well as those of the RFP, are fully incorporated into bidder's Proposal, unless otherwise clearly stated to the contrary in the Proposal. Proposals containing exceptions to RFP provisions may not be favorably received.

The bidder represents and warrants the proposal submitted is not the result of collusion with other eligible bidders or with any employee or agent of the State of the Nebraska or the University of Nebraska, and no effort has been made to preclude UNL from obtaining the most advantageous response possible to this RFP.

The successful bidder, on behalf of itself and any subcontractor to the Contract, agrees that it shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska pursuant to Neb. Rev. Stat. § § 4-108 to 4-114 as amended.

Except where a written signature is required, please type or clearly print the following:

BIDDER FIRM: _____

By: _____ Date: _____
 Authorized Signature

Signing Officer's Name and Title: _____

Correspondence to the bidder with respect to this RFP may be directed to:

Name: _____ Phone Number: _____

Title: _____ FAX Number: _____

Address: _____ Email Address: _____

1.2 Project Scope:

The University's intent is to establish a contract with a single prime vendor to support and provide snow and ice control services for the Innovation Campus (formerly known as the State Fair Grounds). "Control" is defined as: snow removal, sanding and application of ice melt materials to all surfaces.

1.3 Snow & Ice Control Services:

Services will include, but are not limited to: snow and ice removal/control from surface parking lots, roadways, sidewalks, stair steps and building entrances.

1.4 Evaluation and Negotiation:

Proposals received will initiate the process of evaluation and negotiation, which will lead to a contract between the University of Nebraska-Lincoln and a primary vendor(s).

1.5 Vendor Interviews:

After proposals have been received and reviewed, two or more bidder's will be invited to the University for an interview session. The interview sessions will provide an opportunity for UNL end users to ask / clarify sections of the bidder's proposal. This will additionally provide an opportunity for the vendor to ask questions and clarify the University's service requirements.

In the event a single vendor cannot meet all of the University's Innovation Campus snow control service requirements, the University reserves the right to award this contact to more than one vendor.

1.6 Innovation Campus Site Visit:

The University recommends all bidders conduct their own site visit of the Innovation Campus prior to submitting a proposal. Reference the attached maps to view the areas specified for snow and ice control.

1.7 Mandatory Pre-Bid Meeting:

On the front cover of this RFP, **a mandatory pre-bid meeting is set.** Any entity wishing to preserve its ability to bid, must be represented and will be required to register at the meeting. All persons planning to attend the preliminary conference should inform the UNL Purchasing Department [(402) 472-2126] of their plans to attend the conference no later than November 2, 2009. Persons planning to attend the pre-bid conference are strongly encouraged to direct any questions they have about this RFP to the attention of Lonnie Honeycutt, such questions to be in writing and delivered by e-mail (unlpurchasing2@unl.edu) or by facsimile (402-472-2246) attention Lonnie Honeycutt, no later than November 2, 2009. Questions timely and properly posed will be answered at the pre-bid conference. Due to limited space in our conference room, we are requesting Bidders **have no more than 1 (one) company representatives attend the pre-bid meeting.** Pre-bid meeting location is 1700 "Y" Street, UNL Purchasing Department, Room #125A, Lincoln, Nebraska. The parking lot on the south side of the building is a visitor lot. The parking lot on the west side of the building has additional visitor parking stalls available.

1.8 Independent Contractor:

The vendor awarded this contract will be considered a independent contractor, neither he or his employees or agents shall be considered for any purpose to be employees of the University of Nebraska-Lincoln.

1.9 Snow and Ice Control Surface Area:

In it's entirety, the project will require snow removal from:

- A. Hard Surface (asphalt) Parking Lots 748,430 sq. ft.
- B. Hard Surface (gravel) Parking Lots 91,534 sq. ft.
- C. Hard Surface (asphalt) Roadways 358,158 sq. ft.
- D. Hard Surface (gravel) Roadways 63,099 sq. ft.
- E. Cement Sidewalks 7,012 ft.
- F. Cement Stairways 50 ft.

1.10 Snow and Ice Control Equipment:

Bidder will be required to provide all equipment used in the snow and ice control process, trucks w/mounted blades, utility vehicles w/mounted blades and brushes, shovels, including equipment operators and other snow removal staff. All power operated snow and ice control equipment must have rubber tires. Equipment used in the snow and ice control process must meet all OSHA safety requirements.

1.11 Equipment Operators:

The vendor awarded this contract will be responsible for furnishing all fuels, and lubricants for power equipment at no additional charge to the University. Vendors must provide qualified power equipment operators. All vehicle operators must be at least twenty-one (21) years of age and possess a valid Nebraska Motor Vehicle Operator's License. Operators must have proven skills in operating the vendors snow and ice control equipment.

1.12 Equipment List:

Bidders are required to list the equipment they will utilize in the snow and ice control process. Please list an item description, make, model year of the equipment that will be used.

1.13 Equipment – Parking Lots:

Equipment to be used for snow and ice control for asphalt and gravel surface parking lots:

<u>Equipment Description</u>	<u>Make / Model</u>	<u>Model Year</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1.14 Equipment – Roadways:

Equipment to be used for snow and ice control for asphalt and gravel roadways:

<u>Equipment Description</u>	<u>Make / Model</u>	<u>Model Year</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1.15 Ice Melt:

The University must approve all brands of ice melt to be used on sidewalks and stair ways by the vendor. List the brand(s) of ice melt to be used by your company and the ingredients/components of the ice melt. Attach the MSDS sheets to your bid for the brand(s) of ice melt your company will be using at the Innovation Campus.

<u>Brand</u>	<u>Product Ingredients / Chemical Makeup</u>
_____	_____
_____	_____
_____	_____

List the equipment your company will use for spreading ice melt.

<u>Equipment Description</u>	<u>Make / Model</u>	<u>Model Year</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

1.16 Sand:

The successful bidder must use Grade 47B sand when sanding sidewalks and stairs at Innovation Campus.

Do you agree to use only Grade 47B sand? Yes ____ No ____

List the equipment your company will use for spreading sand.

<u>Equipment Description</u>	<u>Make / Model</u>	<u>Model Year</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

1.17 Event / Game Day Scenario:

8” snowfall occurs during the night and stops at 5:00 a.m. Snow and ice control services are conducted per the “ time completed priority” requirements. Snow shower starts again around 9:00 a.m. and there is an event (basketball, ice hockey, etc.) scheduled to start at 1:00 p.m. Vendor needs to come back and do sidewalk and street snow/ice control services again to meet the “2 hour prior to and leading up to the start of the event requirement.

1.18 Attachments:

Map “A” – Outlined in red and green are the Surface Parking Lots requiring snow and ice control services (print on a color printer).

Map “B” – Outlined in red and green are the Roadways requiring snow and ice controls services (print on a color printer).

Map “C” – Outlined in red are the Sidewalks requiring snow and ice control services (print on a color printer).

Attachment “E” – are charts which defines the priority of areas to be cleared, time of day areas are to be cleared by and a description of the area requiring snow and ice control services. The tabs at the bottom of the page lists event schedules for the Devaney Sports Center, the Ice Box hockey complex, the Horseman’s complex and UNL Campus Recreation’s scheduled events at the Ice Box hockey complex.

1.19 Method of Award:

Price will be based on a per hour charge. Price per hour must include the removal /control of snow and ice from all parking lots, roadways, sidewalks and stairs (reference all attachments and ma[s]).

Bidder’s per hour charge must include all costs of labor, equipment, materials (sand and ice melt), fuels and lubricants.

1.20 Proposal Per Hour Price Sheet:

Prices to include all costs of labor, equipment, materials, fuels and lubricants.

1.20A:

- 1.) Hard surface asphalt parking lots (748,430 sq. ft.)
- 2.) Hard surface gravel parking lots (91,538sq. ft.)
- 3.) Hard surface asphalt roadways (358,158 sq. ft.)
- 4.) Hard surface gravel roadways (63,099 sq. ft.)
- 5.) Cement sidewalks (7,012 ft.)
- 6.) Cement stairways (50 ft.)

PRICE PER HOUR CHARGE (ALL SERVICES) \$ / HOUR
=====

1.20B:

- 1.) Follow-Up Snow and Ice Control - sand and ice melt (if needed later in the day for scheduled events – basketball, hockey, etc.)

PRICE PER HOUR CHARGE \$ / HOUR
=====

1.20C:

- 1.) Ice Control (Trace – 1” snowfall and ice)

PRICE PER HOUR CHARGE \$ / HOUR
=====

SECTION 2.0: REQUIRED RESPONSE QUESTIONS

Each bidder shall submit a complete response or indicate its consent to each requirement described below. **Bidder should reference the item number and repeat the item heading in its response.** In cases where a question does not apply or if unable to respond, bidder should refer to the item number and item heading, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Bidder will explain the reason when responding N/A or N/R.

2.1 History and Background of Bidder:

A. Company Vita

- Legal name, e.g. “ABC Group, Inc.”
- Business address for office providing service under the Agreement
- Number of Years in Business
- State of Incorporation
- Confirm Legal Status to Conduct Business in Nebraska
- Number of Employees
- Name of Parent Corporation, if any
- Brief history of bidder’s company

B. Financial Statements

The University reserves the right to request financial statements from Bidders at a later date. Do not submit financial statements / information at this time.

C. Litigation

Identify any litigation or claim brought against your company within the last seven years, which might reflect adversely on your company’s professional image or ability in relation to providing the goods or services sought under this RFP.

D. Mergers and Acquisitions

Is your company currently for sale or involved in any transaction to expand or to become acquired by or merged with another organization? If so, please explain. Has your company been involved in any reorganization, acquisition or merger within the last two years? If so, please explain.

E. Credit Rating

Is bidder currently in default on any loan Agreement or financing Agreement with any bank, financial institution, or other entity? If yes, bidder shall specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution. The University reserves the right to request a copy of the bidder’s most recent credit rating. Such credit rating must be from a reputable rating firm, reasonably acceptable to the University. Do not send credit rating report at this time.

F. Conflict of Interest

Does bidder, to the best of its knowledge, have any relationship with a member of the Board of Regents of the University of Nebraska, an employee of the University of Nebraska, or other representative of the University which may, or may be perceived, to be a potential conflict of interest for either the bidder or the University. If so, please explain in detail.

2.2 Certificate of Liability Insurance:

The successful Bidder will be required to provide to the Purchasing Department a certificate of liability insurance prior to the effective date of the agreement, with comprehensive general liability coverage (\$1,000,000.00 per occurrence) and worker’s compensation coverage, in amounts no less than required by law. The certificate must list **“The Board of Regents of the University of Nebraska” as an additional insured** to the liability coverage.

2.3 References:

Supply references from three (3) of your institutional customers, similar in size and volume to the University of Nebraska-Lincoln. References from malls, large business, Universities, Colleges, or Schools are preferable.

Reference #1: Customer Name: _____

Address_____

City, State, Zip_____

Manager/Contact Person _____

Telephone Number_____

Reference #2: Customer Name: _____

Address_____

City, State, Zip_____

Manager/Contact Person _____

Telephone Number_____

Reference #3: Customer Name: _____

Address_____

City, State, Zip_____

Manager/Contact Person _____

Telephone Number_____

SECTION 3.0 COMPONENTS OF THE PROCESS:

3.1 Requirements--Responding to Specifications:

Each bidder responding to this RFP is expected to submit a well organized, easy-to-read, written proposal, which clearly and coherently provides the information as requested in this bid document. Answers and responses to the information required must be numbered to directly coordinate with the number of the inquiry as it appears in this RFP.

3.2 Communications:

All questions concerning this RFP shall be in writing, e-mailed or faxed by the bidder and addressed to:

Lonnie Honeycutt
University of Nebraska–Lincoln
Purchasing Department
1700 Y Street
Lincoln, Nebraska 68588-0645

Fax: (402) 472-2246

E-mail: unlpurchasing2@unl.edu

For additional information concerning bidder questions, clarifications and addenda, see Section 4.3: Bidder Questions, Clarifications and Addenda Interpretation.

3.3 Critical Dates:

See “Key Dates” as set forth on the cover to this RFP.

Any bid may be withdrawn prior to the scheduled time for the opening of bids. Unless otherwise stated in this RFP, no proposal may be rescinded within one-hundred twenty (120) days following the scheduled opening of proposals without the approval of the Director of Purchasing.

3.4 Basis of Selection:

The award of this bid, if any, shall be made to the most responsible bidder, taking into consideration the best interest of the University of Nebraska-Lincoln. While pricing is often an important criterion, it may or may not be determinative. UNL may waive any irregularity or other requirement, which it deems does not materially affect the selection process. Factors that may be considered in the award process include, but are not limited to, clarity and responsiveness, conformity with RFP specifications, cost effectiveness, timeliness of services offered, the specific needs of UNL, bidder’s reputation and/or past performance.

Proposals will be evaluated, and the contract, if any, awarded and performed in compliance with all relevant University of Nebraska policies.

UNL reserves the right to request additional information from a bidder in any format which UNL deems necessary to evaluate the proposals, including formal Q & A or meetings and presentations. The evaluation may include subjective assessment of the proposal materials, including factors not listed specifically in this RFP.

3.5 Negotiation:

UNL reserves the right to conduct discussions and negotiations with any or all respondents to this RFP, concerning any element of or response to this RFP, for the purpose of clarification and modification. Discussion and negotiation may include, but is not limited to, scope of work, timeliness of services, and price.

3.6 Notification of Award:

Upon completion of the evaluation process, the bidders will be notified in writing, or by e-mail, of the identity of the successful bidder. If for any reason, UNL and the successful bidder fail to finalize a contract, UNL reserves the right to attempt to enter into a contract with the next most responsive bidder, based on evaluation results.

3.7 Reservation of Rights: Rejection of Proposals; Non-Responsive Proposals:

UNL reserves the right to reject all proposals received and discontinue the evaluation and selection process at any time. UNL also reserves the right to re-solicit proposals in response to this RFP or any amendment of this RFP. If no responsive bids are received by the UNL, UNL reserves the right to negotiate with any firm in order to substantially fulfill the RFP under such terms and conditions as UNL deems best serve its needs.

3.8 Public Information:

Bidders' names are public information at the time proposals are opened at the scheduled bid closing time. Until the successful bidder is determined and announced, UNL will treat all other elements of the proposals as confidential information, not subject to public disclosure. However, once the successful bidder is announced, all proposals submitted will be treated as public information, except to the extent that any bidder gives UNL specific written notice of information it believes to be proprietary, commercial, a trade secret, or otherwise confidential. Should UNL determine that such bidder-identified information is indeed proprietary or otherwise confidential, than it will not publicly disclose that portion of the proposal without the consent of the bidder, unless otherwise required by law, e.g. judicial order. As a general matter, UNL considers financial statements of privately held companies, if such are a required submission, to be proprietary. Pricing terms appearing in proposals are considered public information.

Bidder shall be chiefly responsible for providing the defense for any challenge to a decision to withhold information contained in a Proposal, based upon bidder's identification of the information as not subject to public disclosure.

3.9 Grievance

The UNL grievance procedures can be found at the UNL Purchasing Department web site, <http://purchasing.unl.edu/policies/>

SECTION 4.0: PROPOSAL SUBMITTAL REQUIREMENTS

4.1 Submittals and Bid Opening:

One (1) original and one (1) copy, marked accordingly, of your proposal, must be received by UNL in the Office of University Services, Purchasing Department, 1700 Y Street, University of Nebraska–Lincoln, Lincoln, Nebraska 68588-0645 no later than the date and time set forth on the cover of this RFP. At that time, the proposals will be opened publicly. No proposals received after the opening time will be considered. All proposals submitted, along with any exhibits, addenda or modifications, shall be the property of UNL.

4.2 Submitting Proposals:

Each bidder is responsible for making sure their proposal is properly addressed / identified. In order to assure proper processing and receipt, your bid submittal should be returned in an envelope (or parcel) and delivered to/addressed as follows: **University of Nebraska–Lincoln, Office of University Services, Purchasing Department, 1700 Y Street, Lincoln, NE 68588-0645** along with the applicable “**RFP Number**” and “**Title of Bid**” to which you are responding.

If you are delivering your proposal in person, it should be sealed, submitted and labeled in the above manner, and given to an authorized member of the University’s purchasing staff.

4.3 Bidder Questions, Clarifications, and Addenda Interpretation:

It is the responsibility of each bidder to become familiar with the project requirements. Lack of knowledge concerning the project requirements will not relieve bidders of the conditions required as responsive to this RFP.

NOTE: This is a formal, sealed bid. Fax, email or verbal responses will be rejected.

Except in the course of preliminary conference open to all interested parties, should one be held, no interpretation related to the requirements of this RFP will be made verbally to any bidder by UNL. **In order to be given consideration, any requests for bid interpretation must be received by UNL no later than November 6, 2009.** Any request for bid interpretation shall be put in writing and faxed or e-mailed by the bidder and addressed to:

Lonnie Honeycutt
Purchasing Department
University of Nebraska–Lincoln
Lincoln, Nebraska 68588-0645

FAX (402) 472-2246
E-mail: unlpurchasing2@unl.edu

Any and all interpretations and any supplemental instructions provided by UNL shall be in the form of a written addenda to the Request for Proposal, which if issued, will be mailed, e-mailed or faxed to all known interested parties or bidders, or such other form of communication as UNL deems reasonably likely to reach interested parties no later than November 9, 2009; provided however, that bidders who were notified of this RFP by accessing the UNL Purchasing Department website are responsible to check the website from time-to-time in order to inform themselves of any addenda to the RFP. The bidder, not UNL, is responsible to secure notification and delivery of any addenda. Failure of any bidder to receive any addenda or other information released by UNL after the initial distribution of this RFP shall not relieve the bidder from the obligations specified in addenda or other releases. All addenda shall be incorporated in the RFP to the same effect as if they were set out in the initial RFP release.

The bidders are solely responsible for providing their correct mailing addresses, email addresses, and fax numbers for any response to inquiries. UNL is not responsible for lost or undeliverable responses.

4.4 Cost of Preparation:

UNL will not be responsible for any costs incurred in preparation of the bidder's proposal.

4.5 Bidder Qualification:

UNL may make any investigations deemed necessary or request any documentation to evaluate the ability of the bidder to perform the specifications of this RFP. The bidder shall furnish UNL with pertinent information and data upon request. UNL reserves the right in its sole discretion to reject any bid based on the facts resulting from an investigation which indicate that a bidder: (a) is not properly qualified to carry out the obligations of any contract awarded; or (b) presents a public image not in keeping with the professional standards and reputation which UNL expects. Conditional bids will not be accepted.

4.6 Exceptions:

Any exceptions with respect to any requirement of this RFP must be specified in writing as part of the submitted proposal. Specific reference must be made with respect to the paragraph numbers and other identifying criteria with respect to any exceptions proposed by the bidder. Generally, UNL will not look favorably upon the request for any exceptions. However, UNL recognizes that in certain instances, an exception may be appropriate, and therefore, will consider and reserves the right to grant exceptions when UNL deems such exceptions promote its best interests. Conditional bids will not be considered.

4.7 Performance Bond:

An Owner's Protective Bond (Performance/Labor and Materials) bond will be required from the successful bidder acceptable to the Owner in the amount of \$28,400.00. A copy of the owner's protective bond form acceptable to UNL is available upon request..

SECTION 5.0: TERMS AND CONDITIONS

The information contained in this section is a partial listing of standard terms commonly appearing in contracts awarded by UNL. All proposals are subject to these terms, unless otherwise explicitly stated.

5.1 General:

The specifications, terms, and conditions set forth in this RFP and any related award document shall be incorporated by reference, without Bidder exception, into any resulting contract between the University and the successful bidder. Any additional or different terms proposed by the successful bidder are not accepted, unless the same are expressly accepted in writing by UNL. The contract may not be changed in any way except by an instrument in writing signed by both parties. The contract cancels and supersedes any prior understandings or agreements between the parties with respect to the subject matter hereof. Failure of any party to enforce its right under the contract shall not constitute a waiver of such rights or of any other rights under the contract.

5.2 Term of Contract:

The initial term of this contract will be one (1) year upon signing by both parties. Effective date of the contract will be January 1, 2010 through December 31, 2010. With mutual agreement by both parties this contract may be renewed for four (4) additional one year periods. The length of this contract will not exceed five (5) years in its entirety.

5.3 Termination for Cause:

UNL may terminate the contract at any time if the successful bidder fails to carry out its terms or fails to make substantial progress toward the fulfillment of those terms. In such an event, UNL shall provide the successful bidder with a thirty (30) day written notice of the terms in breach. If after such notice, the successful bidder fails to remedy the breach within thirty (30) days, UNL may immediately cancel the contract.

5.4 Contract Assignment:

Contracts granted pursuant to this RFP shall not be transferred or assigned without prior written consent of UNL.

5.5 Indemnity, General and Patent:

The successful bidder shall indemnify and save harmless UNL and its respective officers, agents and employees from and against any and all liabilities and losses whatsoever, including without limitation, costs and expenses in connection therewith, on account of, or by reason of, injury to or death of, any person whatsoever, or loss of or damage to any property whatsoever, suffered or sustained in the case of, or in connection with, the performance of the contract, except for that liability and loss arising from the acts or omissions of UNL or its agents.

With respect to anything provided to UNL by the bidder pursuant to this RFP, the bidder shall indemnify the University and its respective officers, agents and employees against liability, including costs and attorney's fees for infringement of any United States patent, copyright, trade infringement or other intellectual property right arising out of the manufacture, delivery and use of such by UNL.

5.6 Governing Law; Venue:

The laws of the State of Nebraska shall govern any contract awarded to the successful bidder. Any dispute arising under any contract awarded, which is not settled by agreement of the parties, shall be resolved in forums (except for applicable federal appellate courts) located in the State of Nebraska.

5.7 Force Majeure:

Neither party to the contract shall be liable to the other for damages for any delay in performance arising out of causes beyond its reasonable control and without its fault or negligence, including without limitation: (1) fire, flood or water damage, elements of nature or other acts of God, including any of the foregoing that are harmful to electronic circuitry; (2) outbreak or escalation of hostilities, war, riots, or civil disorders in any country; (3) act or omission of the other party or any governmental authority, (4) labor disputes (whether or not the employees' demands are reasonable or within the party's power to satisfy), (5) non-performance by a third party (including any voice or data telecommunications common carrier), (6) failures or fluctuations in telephone, computer or other telecommunications equipment or lines or other equipment, (7) the real, potential, or credible threat of terrorist activity, or (8) a health emergency (e.g. serious outbreak of contagious disease such as a influenza pandemic) which in the judgment of UNL poses a serious threat to the public health. In the case of any such excusable delay, the non-performing party will be excused from performance of any affected obligation only for so long as the cause of the excusable delay prevails and such party continues to use commercially reasonable efforts to re-commence performance of its obligations as soon as possible; provided however, that the parties may mutually agree that such excusable delay is cause to cancel the contract in its entirety, in which case neither party shall be liable to the other for any further performance in relation obligations arising after cancellation.

5.8 Compliance with Laws and Regulations; Gramm Leach Bliley; University of Nebraska Policies:

This contract must comply with all applicable federal, state and local laws, specifically including all laws and regulations related to the protection and security of any personal information gathered by the successful bidder, such as the Gramm Leach Bliley Act implemented at the University of Nebraska by Presidential Executive Memorandum No. 26 which requires specific vendor contract provisions; and all other applicable policies of the University of Nebraska. Bidder agrees to indemnify UNL against any loss, cost, liability, or damage by reason of bidder's violation of any applicable law or regulation. Any successful bidder must be qualified to conduct the business necessary to the performance of the contract in the State of Nebraska throughout the duration of the contract term or any renewal thereof. The successful bidder shall obtain, at its own cost and expense, all necessary licenses, professional certifications and permits and shall assume the responsibility for and pay all applicable fees and all other taxes, which are now or may be imposed in the future by any governmental authority arising out of the conduct of bidder's business.

5.9 Sexual Harassment:

State and federal law, as well as the policies of the Board of Regents of the University of Nebraska, prohibit sexual harassment of members of the UNL community. Sexual harassment includes any unwelcome sexual advance, any request for a sexual favor, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive environment. UNL contractors, subcontractors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of UNL employees, students and other members of the UNL community. The employer of any person who UNL, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of any contract awarded hereunder to cause such person to be removed from the project site and from UNL premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

5.10 Drug Free Workplace:

The successful bidder agrees that in the performance of this contract, neither the bidder nor any of its employees shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by the contract. UNL reserves the right to request a copy of the bidder's Drug Free Workplace Policy. The bidder

further agrees to insert a provision similar to this statement in all subcontracts or services required in response to this RFP.

5.11 Weapons Policy:

Possession of dangerous weapons (concealed or unconcealed) on UNL property, on the work site, in UNL vehicles, or in personal vehicles when on UNL property shall be a violation of UNL policy. (A dangerous weapon shall include guns, knives, explosives, or any other device as determined by UNL, which in the manner used or intended is capable of producing death or bodily injury. Devices authorized by the Vice Chancellor for Business and Finance and/or provided to its employees for the purpose of carrying out work responsibilities shall not be deemed dangerous weapons for the purpose of this policy.) Violations of this policy shall make the offender subject to appropriate disciplinary action. Should UNL in its reasonable judgment determine that the bidder or its employee or agent has committed an act in violation of this policy, the bidder agrees as a term and condition of the contract awarded hereunder to cause such person and weapon to be removed from the project site and from UNL premises and to take such other action as may be reasonably necessary to ensure compliance with this weapons policy.

5.12 Equal Opportunity in Procurement and Contracts:

The University of Nebraska recognizes the importance of a strong culturally diverse business community and the positive impact that successful businesses have upon the people of the State of Nebraska. The University of Nebraska assumes a leadership role in actions that will provide business opportunities for all businesses in the State of Nebraska.

Accordingly, the University of Nebraska reaffirms its policy of providing equal opportunity to small business enterprises and to minority, disadvantaged and women owned business enterprises in all aspects of the University of Nebraska's procurement and contracting activities. This includes procurement of contracts for operational supplies and equipment, construction projects and materials, service contracts and License agreements. It is also the University of Nebraska's policy that any person or business seeking the opportunity to do business with the University of Nebraska shall not be discriminated against on the basis of race, color, religion, sex, national or ethnic origin, age, disability, marital status, or veteran status. The University of Nebraska conducts its procurement and contracting activities in a manner designed to prevent unlawful discrimination. University of Nebraska policies are consistent with applicable state and federal laws and regulations prohibiting unlawful discrimination.

5.13 Proprietary Information; Confidential Employee Information; HIPAA; FERPA:

It is to be expected that the parties to the contract may find it necessary to reveal certain proprietary information to each other. The contract may, when proprietary information is exchanged, include certain provisions to mutually protect against the use and disclosure of the proprietary information of each party. In the unusual circumstance that the contract should result in the sharing of employee information protected by the law or University of Nebraska policy, information protected by the Health Insurance Portability and Accountability Act, information protected by the Family Educational Rights and Privacy Act of 1974, or any other information deemed confidential and protected by the law, the parties to the contract agree to maintain the confidentiality of such information to the extent and manner required by the law and University policy.

5.14 Subcontractors:

The successful bidder shall not subcontract all or substantially all of any facet of the Proposal without the prior written approval of UNL. The successful bidder shall be fully responsible for the acts and omissions of its subcontractors and of the persons directly or indirectly employed by them. Every subcontractor shall be bound by the terms of any contract awarded under this RFP; provided however, that no contractual relationship shall exist between any subcontractor and

UNL, unless it is evidenced in a separate contract independent of the contract with the successful bidder.

5.15 Legislative Funding Out Clause:

Notwithstanding any provision in the contract to the contrary, if the legislative body appropriating funds, does not allocate sufficient funds to allow UNL to make any periodic payment agreed to in the contract for any future fiscal period, UNL will not be obligated to pay the contract balance remaining at the time of the governmental funding short-fall.

5.16 Parking:

UNL shall not be responsible for providing parking for successful bidder's parking needs. The successful bidder and/or its employees and agents will be solely responsible for any fines resulting from parking violations occurring on UNL property. It is recommended that the successful bidder and any temporary employees contact the Parking and Transit Services at Stadium Drive Parking Garage, Lincoln, Nebraska, phone (402) 472-1800 to obtain information regarding parking and to obtain permits.

5.17 Building Rules and Regulations; Tobacco Use:

Employees of the successful bidder and any subcontractors shall comply with all UNL rules and regulations pertaining to conduct in UNL's facilities. UNL reserves the right to request the removal or replacement of any bidder or subcontractor employee who fails to comply with such rules and regulations.

All buildings and University owned vehicles on the UNL campus are tobacco-free. Use of tobacco products is not permitted inside any UNL facility. The successful bidder is expected to respect this tobacco-free policy and fully comply with it.

5.18 Vendor Identification:

The Vendor awarded this contract shall cause each of its employees or any person acting on behalf of the Vendor, while providing goods/services to the University under this Agreement and working on University property, to carry identification, with photo, showing that the individual is an employee or person acting on behalf of the Vendor. A badge worn outside of clothing is appropriate for this purpose. Such identification shall be produced upon request of any University representative, in order to confirm that the Vendor's representative is authorized to be present on University property and/or performing as authorized by the Agreement. Whereas campus security is of utmost importance, failure of any Vendor representative to produce the requisite identification upon request, shall be a material breach of the Agreement and shall be cause, at the discretion of the University, for immediate termination of the Agreement. For those who commonly wear a work uniform, such uniform shall be worn while providing the services related to this Agreement in order that the University may quickly and clearly identify Vendor's service representatives when necessary. A uniform, however, does not take the place of a photo identification badge.

5.19 Use of Premises:

To the extent that any contract awarded requires the successful bidder or its employees or agents to be present on or within UNL's properties, then the bidder shall limit its presence and activities to such areas as are reasonably necessary in order to perform under the contract. The successful bidder shall take such precautions as are required to avoid damage to buildings, facilities, utilities, ground resources, trees and landscape amenities, and other properties adjacent to the bidder's activities within the scope of the contract and agrees to be responsible and/or carry out any repairs for which it is liable, as a result of its performance under the contract.

5.20 Hazardous Waste Generated by Contractors:

Any hazardous waste that is generated from the performance of any contract awarded shall be properly disposed of by the successful bidder in a timely fashion and in accordance with

applicable hazardous waste laws and regulations. The cost for hazardous waste management and disposal is the successful bidder's responsibility. Should UNL deem it prudent to dispose of any hazardous waste left on its property, as a result of the successful bidder's failure to meet its responsibilities, all costs associated with such disposal shall be deducted from any amount yet to be paid to the bidder and/or billed to the bidder. University Environmental Health Services will be notified of all hazardous waste issues.

5.21 Delivery; F.O.B.; Shipping:

The successful bidder shall bear all costs of transportation, packing, crating, delivery, installation, storage, and service under warranty for any goods or related services, delivered pursuant to the contract. The successful bidder shall be responsible for and make delivery, including costs of delivery, cartage, temporary storage, off-loading costs, and insurance, F.O.B. destination: University of Nebraska -Lincoln, Lincoln, Nebraska and the city of Lincoln, NE. Unless otherwise specified, all shipments will utilize the best commercial practice to insure safe arrival at the UNL and city of Lincoln, NE delivery point.

5.22 Defective Goods or Work:

UNL and the city of Lincoln, NE, notwithstanding any prior acceptance, at its option, may reject or require prompt correction (in place or elsewhere) of any goods, equipment, supplies, or other work, which are defective in material or workmanship or otherwise fail to meet the requirements of the contract. All supplies furnished under the contract shall be subject to inspection at F.O.B. destination, and successful bidder shall be given notice of any defects, other than latent defects, within a reasonable time after receipt of the goods, equipment, and supplies, along with all records of delivery. UNL may, in addition to any rights it may have by law, prepare for shipment and ship the defective goods, equipment, and supplies to the successful bidder, require the successful bidder to remove them, or direct a correction in place. The expense of any such remedy shall be borne by the successful bidder, including any excess cost.

5.23 Liens:

Successful bidder warrants that it has title to any goods delivered under the contract and shall deliver same free of all liens, claims, and encumbrances.

5.24 Payment Terms:

Payment terms will be Net 30 from the date the University receives a billing invoice from the Vendor.