



REQUEST FOR PROPOSAL (RFP)

FOR

Kemper Center/Anderson Arts Center Utilization & Business Plan

RFP #2303

Issued by:

County of Kenosha Purchasing Division

**Sealed proposals must be submitted
No later than 3:00 PM 2/22/2023 to:**

**County of Kenosha Purchasing Division
1010 56th Street, Second Floor
Kenosha, WI 53140**

LATE RESPONSES WILL BE REJECTED

PRE-PROPOSAL CONFERENCE FOR ALL VENDORS SHALL BE HELD AT:

Kemper Center
6501 3rd Ave
Kenosha, WI 53143
2/7/2023 at 11:00 AM

For further information regarding this

RFP contact:

Matthew Fleming
(262) 653-2527

Matt.Fleming@kenoshacounty.org

Issued: 1/24/2023

TABLE OF CONTENTS

<u>SECTION</u>	<u>SUBJECT</u>	<u>PAGE #</u>
1.	INTRODUCTION AND OBJECTIVES	3
2.	DEFINITIONS.....	3
3.	FACILITY & GROUNDS OVERVIEW.....	4
4.	STATEMENT OF WORK.....	4
5.	PROPOSER QUALIFICATIONS.....	7
6.	CALENDAR OF EVENTS.....	7
7.	CONTRACT	8
8.	PRE-PROPOSAL CONFERENCE and/or PRE-PROPOSAL SITE VISIT	8
9.	VENDOR REGISTRATION	8
10.	THIRD PARTY RFP SERVICES.....	8
11.	QUESTIONS & ADDENDA	8
12.	PRICES	9
13.	RFP SUBMISSION.....	9
14.	INSTRUCTIONS TO VENDORS & RESPONSE REQUIREMENTS	10
15.	CONFIDENTIALITY/NON-DISCLOSURE	12
16.	ERRORS OR OMISSIONS.....	12
17.	VENDOR RESPONSIBILITY	13
18.	EVALUATION & AWARD PROCESS.....	13
19.	ASSIGNMENT AND SUBCONTRACTING.....	14
20.	INVOICING REQUIREMENTS	15
21.	CONFIDENTIALITY	15
22.	SPECIAL CONDITIONS OF THIS PROPOSAL.....	15
	ATTACHMENT A – SIGNATURE AND AUTHORITY AFFIDAVIT FORM	
	ATTACHMENT B – REFERENCES SHEET	
	ATTACHMENT C – COST PROPOSAL	
	ATTACHMENT D – ETHICS COMPLIANCE NOTICE & ADDENDUM	
	ATTACHMENT E – STANDARD TERMS AND CONDITIONS	

1. INTRODUCTION AND OBJECTIVES

The 17.5-acre Kenosha County Kemper Center Park (6501 3rd Ave.) is located in the heart of downtown Kenosha, WI along the shoreline of Lake Michigan. The County owned property is overseen by the Division of Parks and includes the historic landmarks of Kemper Center and Anderson Arts Center along with recreational amenities of a soccer field, arboretum, and a multi-use path. Kenosha County has a lease agreement with the non-profit 501 (c)(3), Kemper Center Inc. (KCI) since 1974 to aid in operating the day to day activities, programs, events, and routine maintenance within the park and facilities. Kenosha County is currently responsible for typical landlord expenses such as capital improvements, utility fees, and mechanical maintenance and replacements. The existing lease between Kenosha County and KCI is due to expire in 2027. Prior to the expiration of the lease agreement between Kenosha County and KCI, Kenosha County is seeking consultation services to evaluate the utilization of the Kemper Center Campus and make cost recovery recommendations to increase both public and private uses of the complex.

The key objective of the Kemper Center/Anderson Arts Center Utilization & Business Plan will be to provide a measurable analysis of existing optimization of the Campus in order to develop recommendations and guidance to Kenosha County's long-range planning goals. The overall goals of the report will include:

- Summary of current space utilization of the Campus
- Provide programming space uses to serve the population of Kenosha County and its visitors (tourism) to promote education, recreation, culture, history, advocacy/history, and viable cost recovery enterprises (public and/or private).
- Guide Kenosha County on future planning phases to strategically phase in recommendations based on the report.
- Provide solutions to integrate public uses in a manner that can facilitate economic viability and visibility for residents and visitors.
- Summarize proposed utilization of Campus with projected outcomes and target financial objectives through a Return on Investment (ROI) analysis.

The key goal of the Report will aid Kenosha County with the following:

- Increase awareness and tourism of events, special activities, and utilization of the Campus
- Identify policies that include prioritization, funding estimates, and implementation targets
- Identify potential Public Private Partnerships (PPPs) to enhance best utilization of space on the Campus
- Evaluate adaptive reuse of areas to support greater use of the facilities within the Campus.

2. DEFINITIONS

Definitions: The following definitions are used throughout the RFP documents:

Contractor means a Proposer awarded the contract

County means the County of Kenosha Wisconsin

Proposer/Vendor means a company or individual submitting a response to this RFP

Campus means Kemper Center Park including all grounds and facilities located within property

Purchasing means the County of Kenosha Purchasing Division

RFP means Request for Proposal

State means the State of Wisconsin

Vendor Portal means the State of Wisconsin's Vendor Portal (eSupplier)

3. FACILITY & GROUNDS OVERVIEW

Kemper Center

The Kemper Center facility consists of an approximate 150,000 sf facility made of 11 zones including a historic mansion (circa 1860s), two floor conference center & commercial kitchen, observatory, auditorium, artist studios, office space, and vacant areas currently utilized as storage. KCI currently utilizes Kemper Center for both public events and private rentals to aid in revenue generating activities to financially offset the expenses of staff and resources to maintain the campus. Public events have included free concert series, recreational programs, car shows, Christmas events, youth art camps, and fundraisers. Private events have included weddings, funerals, conferences, and private parties. KCI also converted historic dorm rooms into rental properties called the Lakefront Artist Studios to gain additional income. Over the last decade, Kenosha County has heavily invested into the restoration and preservation building exterior including roof replacements, window sealing, tuckpointing, and water infiltration prevention. Kenosha County is currently investing in a multi-year capital improvement campaign to restore the exterior building envelop to prevent water infiltration and preservation of the facility.

Anderson Arts Center

The Anderson Arts Center is a historic mansion along Lake Michigan that is Kenosha County's only public art museum and consists of multiple galleries and is free and open to the public for self-guided tours Tuesdays – Sundays from 1:00 – 4:00pm. Kenosha County led in the \$4.3 million restoration of the Anderson Arts Center in 2020 including the rehabilitation of the building exterior, roof, new restroom facility and installation of geothermal/HVAC mechanicals. The restoration project aided in the ability to become an accredited art museum in anticipation to host nationally renowned exhibits.

Grounds

The Kemper Center campus is considered a Kenosha County Park and welcomes visitors to patronize the outdoors along the Lake Michigan corridor including the network of multi-use paths, soccer field, self-guided arboretum, and floral plantings found throughout the campus. In 2015, Kenosha County invested in the rehabilitation of the storm water utilities, parking lots, and 66th St. access to Anderson Arts Center. Kenosha County has finalized the design and engineering to restore the shoreline due to ongoing erosion and plans are to repair the revetment as funding becomes available.

4. STATEMENT OF WORK

Kenosha County is seeking to hire a professional consulting agency to aid in the development of a long-range utilization and business plan; to target key objectives, advance a higher return on investment to offset ongoing capital and operating costs while, preserving this campus as a public culturally significant resource to the community. This plan will aid in the full utilization of the Kemper Center Campus and create key metrics to target future projects, programs, partnerships, and collaborative efforts to aid with cost recovery solutions. The scope of this project will be to act as consultant (Contractor) to specifically:

1. Show past project successes with consultation services relating to similar public/private business and utilization solutions.

2. Present key personnel that will be a part of the team for the Kemper Center Utilization & Business Plan project: Lead coordinator must have a full understanding of the technical details on the means and methods being used to perform this project.
3. Integrate cost recovery business elements that are low maintenance and resilient to the existing as well as future conditions of the campus.
4. Institute “lessons learned” from past existing KCI/Kenosha County lease agreement to enhance the effectiveness of the future plans for the campus.
5. Work alongside Kenosha County and key stakeholders during key milestones to integrate quality control and accountability throughout the project.
6. Present draft documents and final documents to key stakeholders in person including at County Board meetings and Public Works Committee meetings.
7. Be accessible by phone, email or in person during the entirety of the project.

The awarded Contractor shall provide services which includes, but is not limited to, the following activities:

1. Kickoff and Data Gathering
 - a. On-site meeting with County to review project site and general scope of project deliverables including schedules.
 - b. Data gathering that Contractor will need from the County & KCI (including but not limited to):
 - i. KCI financial statements/audits
 - ii. County financial statements/audits
 - iii. KCI existing utilization of campus activities/events/agreements/sub-contracts
 - iv. Contracts between KCI & Kenosha County, deeds, & grants with property utilization requirements (state & federal grant requirements).
 - v. Facility maps & floorplans
 - vi. Utilities (public and private)
 - vii. Future and ongoing capital improvement project & operation/maintenance budgets (County and KCI)
 - viii. Boundary information
 - ix. Aerial photography
 - x. Census data
 - xi. Mission statements of KCI and Kenosha County Parks
 - xii. KCI Master Plan (1989)
 - c. Collect quantitative data on campus assets to study current and optimal utilization of the Kemper Center Campus. This will include the survey of facilities and grounds, current useable space, and evaluation of underutilized areas that can be developed.
 - d. Complete a market study on Kemper Center and Anderson Arts Center’s current rental and public facility spaces. Evaluate existing KCI rental fees and compare usable space fee structure to similar for-profit and non-profit historic properties regionally beyond Kenosha County. Market study shall also review comparable museum fee structures and expenses that can be compared to the Anderson Arts Center and Durkee Mansion’s current expense & revenue structure.

- e. Develop and administer online survey to send to the general public and key stakeholders to determine desired goals, outcomes, and vision of the Campus.
 - f. Review capital improvement plans and operating expenses of KCI and Kenosha County to determine the existing and ongoing financial sustainability of the Campus.
2. Evaluation
- a. Evaluate current uses and optimization targets of Campus including rentals, special events, programs, cultural/historical preservation functions, and open space utilization.
 - b. Collect community & regional demographic data to analyze specific market feasibility for programs, business operations, revenue goals and objectives, and direct and indirect competitors.
 - c. Review current marketing strategies for the uses of the Campus.
 - d. Appraise any additional partners that have similar missions, goals, and visions as the Campus.
 - e. Identify revenue growth and innovative utilization opportunities based on existing and future market conditions.
 - f. Review current online presence of Kemper Center and Anderson Arts center (Google search results & social media) to evaluate the exposure of events, rental spaces, and art museum. Evaluate and give recommendations to enhance community awareness/tourism within the Campus.
 - g. Develop a strengths, weaknesses, opportunities, and threats (SWOT) analysis to existing operations and uses of campus based on survey, current usage, data, and other metrics to determine future projections with current business model.
 - h. Review data collection and findings summary with County to incorporate feedback and integrate within report.
3. Recommended Solutions
- a. Review draft report for County review and feedback (Feasibility Review)
 - b. Draft report of proposed solutions that will include:
 - i. Executive summary
 - ii. Overview of findings including project scope data, inventory, research, survey results and trends, and evaluations.
 - iii. Details and prioritization of business recommendations based on importance, community impact, budget/costs to implement, feasibilities, and resources.
 - iv. Cost/benefit analysis based on target recommendations and return on investment predictions.
4. Final Documents
- a. 90% Report Set for County review and feedback. Final quality control will occur at 90% plans by County and stakeholders. All errors and omissions shall be corrected by Contractor prior to finalizing the final report.
 - b. Tentative budget and timeline to incorporate the components outlined in the business plan.
 - c. Final Report including:
 - i. Title sheet
 - ii. Executive summary
 - iii. Introduction/Purpose Statement - Define clear goals and objectives of the report

- iv. Data summary including graphs, metrics, analytics, maps
 - v. Review/summarize existing business model for Kemper Center’s campus
 - vi. Review/summarize alternative strategies considered during the evaluation phase of study
 - vii. Comparison Matrix – Rank the ability of competing ideas to aid in providing realistic solutions to increase revenue and utilization of the Campus
 - viii. Recommendations – List of recommendations (short and long range) and solutions based on the collection of data, research of community amenities/infrastructure, feasibility of budgets, target priorities, and specific action items that aid in revenue generating solutions.
 - ix. Case study references and survey overview (appendix)
5. Schedules
- a. Owner expects reports to be completed by 12/31/23.
6. Meetings/Presentations
- a. Attend Kick-off Data Collection Meeting (In-Person)
 - b. Evaluation Meeting – Present & answer all relevant questions at the end of the evaluation period of the plan. (Virtual)
 - c. Recommended Solutions Meeting – Present & answer all relevant questions at the end of the recommended solutions period of the plan. (Virtual)
 - d. Final Documents – Present & answer all relevant questions at the end of the recommended final document period of the plan. (Virtual)
 - e. Final Report – Present final report to County elected officials, stakeholders and the general public & answer all relevant questions at the end of the final report portion of the plan. (In-Person)

5. PROPOSER QUALIFICATIONS

Proposer must have completed a minimum of three projects/contracts of similar size and scope within the past five years.

Proposer must not have a relationship with any potential bidders/proposers for the business solutions or utilization of the Kemper Center campus that is, or would be perceived as, a conflict of interest. The Proposer also will not be able to self-perform future business activities, act as a contractor or sub-contractor for any proposed implementation plans. Awarded Contractor shall provide a written statement confirming that no conflict of interest exists.

6. CALENDAR OF EVENTS

This calendar is subject to change at the sole discretion of Kenosha County. All attempts will be made to adhere to this calendar. However, due to circumstances beyond our control, it may be necessary to modify the events and/or dates and times.

Event	Date
RFP Issued	1/24/2023
Pre-Proposal Conference	2/7/2023 @ 11:00 AM
Last Date for Questions	2/10/2023 @ 5:00 PM
Addendum Posted (estimated and if needed)	2/15/2023 @ 5:00 PM

Proposals Due	2/22/2023 @ 3:00 PM
Possible Vendor Presentations (estimated)	3/15/2023
Contract Award (estimated)	3/22/2023

7. CONTRACT

The contract for this project will consist of this Request for Proposals document, the specification documents and any associated exhibits, drawings, or additional documents, the Contractor’s proposal response with all required forms, any addenda that may be issued, any negotiated terms and conditions, and a Kenosha County standard professional services contract.

Contract will begin immediately upon award and will continue until project completion. It is the expectation of Kenosha County that this project will be substantially complete on or before 12/31/2023.

8. PRE-PROPOSAL CONFERENCE and/or PRE-PROPOSAL SITE VISIT

A vendor pre-proposal meeting will be held on 11:00 AM on 2/7/2023 at the Kemper Center, 6501 3rd Avenue, Kenosha, WI 53143. An addendum will be issued if the meeting is changed or cancelled. This meeting is suggested but not required, failure to attend or to examine any and all RFP documents prior to submitting a response will in no way relieve the successful Contractor from the necessity of furnishing, without additional cost to the County, any materials or equipment or performing any work that may be required to complete the work in accordance with the specifications. No additional charges shall be allowed for lack of information.

9. VENDOR REGISTRATION

Complete Proposal packages may be obtained from the State of Wisconsin’s VendorNet website <https://vendornet.wi.gov/>. To receive notifications of addendum and future bids and proposals, vendors must register with <https://esupplier.wi.gov/>. There is no fee to register. If you do not have internet access, contact this office for a hard copy of this RFP.

10. THIRD PARTY RFP SERVICES

Kenosha County is not responsible for the content of any RFP response package received through any 3rd party service. It is the sole responsibility of the vendor to ensure the completeness of the documents received through any 3rd party source.

11. QUESTIONS & ADDENDA

If a vendor discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, they shall notify the contact person named below of such error and request a modification or clarification.

Any communications or questions regarding the requirements, specifications, or special conditions of RFP should be written and submitted to Purchasing as soon as possible, but no later than **2/10/2023**. Purchasing will respond to questions if necessary by issuing an official addendum, posted on The State of Wisconsin’s Vendor Portal. Any and all addenda issued as part of this RFP shall become part of the requirements of this RFP and will be made part of the contract. Vendors are responsible for checking the portal for any addenda before submitting a response. Failure to acknowledge addenda may disqualify your proposal response.

Any correspondence or questions submitted must include the RFP number.

Submit questions in writing via email to:

**Matthew Fleming, Purchasing Director,
e-mail: matt.fleming@kenoshacounty.org**

No other employee or representative of Kenosha County is authorized to interpret or give information as to the requirements of this RFP in addition to that contained in or amended to this written RFP document. **Vendors are instructed not to contact any other County department or employee regarding this RFP.** Any unauthorized contact regarding this RFP may be cause for the rejection of your proposal, at the sole discretion of the County.

12. PRICES

Proposal prices must be in US dollars, complete and inclusive of all charges at the time of submission. Vendor is responsible for any delivery charges, freight, importing/exporting fees and services, tariff charges, licensing, or any other fees associated with this project.

Proposer certifies that prices, terms and conditions in the proposal will be firm for acceptance for a period of (90) days from the date of opening unless otherwise stated by Kenosha County. Proposals may not be withdrawn before the expiration of (90) days. Prices shall be firm with no escalator clauses unless specified by Kenosha County. Proposals may be withdrawn after ninety (90) days only upon written notification to Kenosha County.

Vendor must utilize the enclosed Cost Proposal form.

13. RFP SUBMISSION

In a sealed container, Proposers must submit one original master copy (so marked) and three (3) identical photocopies (so marked) securely bound in a ring binder or comb/wire binding. Additionally, one soft copy on a USB storage device must be included with the hardcopies in the sealed container. **DO NOT EMAIL AN ELECTRONIC COPY OF THE PROPOSAL TO THE COUNTY PRIOR TO THE DUE DATE.** Fax, email, or online response will not be accepted.

Delivery of a response to any other Kenosha County department or office is not acceptable and may result in your response arriving late in the Purchasing Division office. Receipt of a response by the US mail system does not constitute receipt by Purchasing. Late responses will not be accepted.

The following information must be clearly marked on the front of the envelope/shipping package:

Name & Address of Vender
Due Date of RFP
RFP Number & Title

The following sample mailing label is provided here for your convenience:

Sample
Mailing
Label

From:

**To: Matthew Fleming
Purchasing Director
Kenosha County Purchasing Division
1010 – 56th Street
Kenosha, WI 53140**

RFP RESPONSE
RFP #2303 Kemper Center/Anderson Arts Center Utilization & Business Plan
Due Date: 2/22/2023 at 3:00 PM

14. INSTRUCTIONS TO VENDORS & RESPONSE REQUIREMENTS

- 14.1 Thoroughly examine the scope of work, schedule, instructions and all other solicitation documents and make all investigations necessary to be familiar with conditions that affect the proposal. No pleas of ignorance by the proposer as a result of failure to investigate or examine conditions or failure to fulfill details of the contractual documents will be accepted as a basis for varying the requirements of the County or changing the compensation due.
- 14.2 Provide all required information on the forms furnished in this document. Print or type name on the proposal and manually sign all copies in the space and on the forms provided. If you obtained this solicitation electronically, your response shall not contain any alteration to the document posted other than entering required data in the spaces provided or including attachments as necessary. By submission of a response, offeror affirms that no alteration of any kind has been made to this solicitation.
- 14.3 Do not include federal taxes or State of Wisconsin taxes in prices since the County of Kenosha is exempt from payment of these taxes.
- 14.4 All proposals must be current and final at the time of opening in order to be considered responsive. No proposal will be accepted for consideration, and no award will be made, if at the time of opening anything contained therein is contingent upon, or subject to, any outstanding review, certification, or approval by any party that has not been received.
- 14.5 The following chart details the required proposal outline and specifies the minimum content of the proposal sections. Proposals should be organized in tabbed sections following this chart and each point listed below should be addressed in your proposal.

Tab	Title	Contents:
A	Letter of Transmittal	Include a signed and dated letter of transmittal offering your proposal for the County's consideration, signed by an authorized agent of your company.
B	Table of Contents	A table of contents should be included, and each page of the proposal should be consecutively numbered.
C	Company Profile	<ul style="list-style-type: none"> • Provide a brief overview and history of your company. • Address the company's expertise and qualifications to provide this service. Be specific and detail no more than three similar projects/contracts. Include description of work, dates, locations, challenges and results. • Discuss your company's size and number of employees.
D	Staff Qualifications	<ul style="list-style-type: none"> • Identify key staff your organization/company will assign to fulfill the contract requirements. Detail who would be lead consultant and the role of each individual. • Provide a synopsis describing the educational and work experience for each of the key staff who would be assigned to the contract.
E	Proposal Solutions	<ul style="list-style-type: none"> • Describe your firm's plan to accomplish the requirements of the contract. Discuss all aspects of the Statement of Work and objectives as defined in this document and provide your company's solution. • Detail your firm's understanding of the challenges and barriers and proposed approach to overcoming these barriers. • Provide proposed schedule with key milestones and estimated completion dates.
F	Exceptions	<ul style="list-style-type: none"> • Provide a detailed narrative of any exceptions you take to the Statement of Work or Terms and Conditions of this RFP. • If no exceptions are taken, include a statement to that effect.

F	Reference Accounts	<ul style="list-style-type: none"> On the form provided in this packet, list three (3) accounts your company currently provides these services to. References will be contacted by the County. Kenosha County may also consider reference responses from accounts not listed in your proposal. All information provided must be current and correct. Kenosha County will not attempt to search for current information that is not provided.
G	Vendor Forms	<ul style="list-style-type: none"> Complete the Vendor Acceptance Form and insert it into your proposal Complete the Ethics Compliance Notice & Addendum Complete the Designation of Confidential and proprietary Information Form and insert it into your proposal.

In a separate sealed envelope:

H	Cost Proposal	<ul style="list-style-type: none"> Provide a detailed price list for the services you are proposing along with the Cost Proposal Form.
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15. CONFIDENTIALITY/NON-DISCLOSURE

It is the intent of the County that all proposals received will remain sealed and confidential until the due date. After the due date, only the names of the proposing firms will be released upon request, no other information will be provided until evaluations are complete.

Once the process is complete, no information submitted as a part of this RFP process shall be considered proprietary or confidential unless claimed as a trade secret on the enclosed form "Designation of Confidential and Proprietary Information".

By submitting a proposal, vendors acknowledge that the County may be required under the law to make its records available for public inspection at any time during this RFP process. All Vendors acknowledge and agree that the County will have no obligation or any liability to the Vendor in the event that the County must disclose these materials.

16. ERRORS OR OMISSIONS

Kenosha County reserves the right to permit cure of, or waive as an informality, any irregularities or technicalities contained in any proposal submitted, at the sole discretion of the County, provided such waiver does not substantially change the offer or provide a competitive advantage to any vendor. Contracts will be awarded in the best interests of the County.

17. VENDOR RESPONSIBILITY

A proposal response may be rejected if a vendor fails to meet any one of the following qualifications:

- 17.1 Financial and Organizational Capacity: Factors to be considered include, but are not limited to, assets, liabilities, recent bankruptcies, equipment, facilities, personnel resources and expertise, availability in consideration of other business commitments, or existence of appropriate accounting and auditing procedures for control of property and funds.
- 17.2 Legal Authority: Factors to be considered include, but are not limited to, authority to do business in the State of Wisconsin, licensing, debarment by the State of Wisconsin or Federal Government due to a prevailing wage violation, OSHA violations, violations of other local, state or Federal law, etc.
- 17.3 Integrity: Factors to be considered include, but are not limited to, criminal indictments or convictions, civil fines and injunctions imposed by governmental agencies, anti-trust investigations, ethical violations, tax delinquencies, debarment by federal, state or local governments, or prior determinations of integrity-related non-responsibility.
- 17.4 Previous Contract Performance: Factors to be considered may include reports of less than satisfactory performance, early contract termination for cause, contract abandonment, court determinations of breach of contract, etc.

18. EVALUATION & AWARD PROCESS

18.1 Evaluation Committee

The County's evaluation committee will consist of members who have been selected because of their special expertise and knowledge of the service(s) and/or product(s) that are the subject of this RFP. Proposers may not contact members of the evaluation committee except at the request of Purchasing.

18.2 Right to reject proposals

The County reserves the right to reject any and all proposals.

18.3 Proposal Scoring

Accepted proposals will be reviewed by an evaluation committee and scored against the stated criteria. The committee may review references, request interviews/presentations, conduct demonstrations and/or conduct on-site visits. The resulting information will be used to score the proposals. The evaluation committee's scoring will be tabulated and proposals ranked based on the numerical scores received.

18.4 Evaluation Criteria

The proposals will be scored using the following criteria:

EVALUATION CRITERIA	MAXIMUM POINT VALUES
Cost to the County	20
Company Profile	25
Staff Qualifications	25
Proposal Solutions	30
TOTAL	100

18.5 Interviews/Presentations and/or Demonstrations

Top-scoring proposers, based on the evaluation of the written proposal, may be required to have interviews/presentations to support and clarify their proposals, if requested by the County. The County will make every reasonable attempt to schedule the interview/presentation on the date specified in the Calendar of Events. The proposer is required to have key members of staff attend the interview and be prepared to present and respond to questions. Failure of a proposer to complete a scheduled interview/presentation to the County may result in rejection of that proposer's proposal. The County may conduct reviews of the vendor's work and/or contact references to clarify or confirm proposal information.

18.6 Final Evaluation

Upon completion of any interviews/presentations and/or demonstrations by proposers, the County's evaluation team will review their evaluations and adjust the scores based on the information obtained in the interview/presentation, demonstration, possible reference checks, and any other pertinent proposer information.

18.7 Award and Final Offers

Award will be granted in one of two ways. The award may be granted to the highest scoring responsive and responsible proposer after the original evaluation process is complete. Alternatively, the highest proposer or proposers may be requested to submit Best and Final Offers (BAFO). If the County requests Best and Final Offers, they will be evaluated against the stated criteria outlined in the BAFO, scored, and ranked by the evaluation committee. The award may then be granted to the highest scoring BAFO. However, a proposer should not expect that the County will request a Best and Final Offer.

19. ASSIGNMENT AND SUBCONTRACTING

The selected Contractor will not be permitted to sublet, sell, transfer, assign or otherwise dispose of the contract or any portion therein, or its right, title or interest in, to any person, firm or corporation without the written consent of Kenosha County. If Kenosha County permits the use of subcontractors, the following will apply:

The contractor is the prime contractor. A prime contractor is the vendor who provides a service and receives a payment for that service. The County considers the prime contractor to be the sole point of contact with regards to contractual matters, including the performance of the services and the payment of any and all charges resulting for contractual obligations.

The prime contractor will be responsible for the contract performance when subcontractors are used. However, when subcontractors are used, they must abide by all terms and conditions of the contract. If subcontractors are to be used, the contractor must clearly identify the subcontractor including length of time the subcontractor has been used by the prime contractor and other projects.

The prime contractor shall provide the County with the names of any subcontractors used for the performance of any part of this contract. The existence of the subcontractor does not relieve or reduce the prime contractor of any liability to the County for any breach in the performance of the prime contractor's duties. The prime contractor agrees that all subcontractors shall be agents of the prime

contractor and the prime contractor agrees to hold harmless hereunder for any loss or damage of any kind occasioned by the acts of omissions of prime contractors, subcontracts, their agents or employees.

20. INVOICING REQUIREMENTS

The County's terms are to pay or reject invoices within 30 days of receipt. Before payment is made, it also must verify that all invoiced charges are correct as per this contract. Only properly submitted invoices shall be officially received for payment. Thus, your prompt payment requires that your invoices be clear and complete in conformity with the instructions below.

All invoices must be itemized showing:

- a. Purchase order number
- b. RFP number
- c. Vendor remit to address
- d. Complete detailed product or service description as stated on your RFP
- e. Prices per the Contract

The original invoice must be sent to the bill-to address shown on the Purchase Order.

21. CONFIDENTIALITY

Contractor acknowledges that some of the data and documentation it may become privy to in the performance of this contract is of a confidential nature. Contractor shall make all reasonable efforts to ensure that it or its employees and subcontractors do not disseminate such confidential information.

Contractor or its employees and subcontractors will not reuse, sell, or make use in any format the data researched or compiled for this contract for any venture, profitable or not, outside this contract.

Contractor agrees to observe complete confidentiality with respect to all aspects of any confidential information, proprietary data and/or trade secrets and any parts thereof, whether such contents are the County's or the manufacturer's, or distributor's whereby Contractor or any Contractor's personnel may gain access while engaged by the County or while on County premises.

The restrictions herein shall survive the termination of this contract for any reason and shall continue in full force and effect and shall be binding upon the Contractor or its agents, employees, successors, assigns, subcontractors, or any party claiming an interest in this contract on behalf of or under the rights of Contractor following any termination. Contractor shall advise all Contractor's agents, employees, successors, assigns and subcontractors which are engaged by the County of the restrictions, present and continuing, set forth herein. Contractor shall be liable for all damages resulting from its breach of confidentiality and defend and incur all costs, if any, for actions that arise as a result of noncompliance by Contractor, its agents, employees, successors, assigns and subcontractors regarding the restrictions herein.

22. SPECIAL CONDITIONS OF THIS PROPOSAL

22.1 Indemnity and Insurance Requirements

A proposal response may be rejected if a vendor fails to meet any one of the following insurance requirements:

- 22.1.1. Contractor agrees to indemnify, hold harmless and defend Kenosha County, its officers, agents and employees from any and all liability including claims, demands, losses, costs, damages and expenses of every kind and description or damage to persons or property arising out of or in connection with or occurring during the course of this agreement where such liability is founded upon or occurring out of the acts or omissions of the

Contractor, its agents or employees, regardless of whether or not it is caused in part by Kenosha County. Contractor shall notify Kenosha County immediately upon the commencement of any litigation against Contractor where there is any possibility Kenosha County may be made a party thereto. Should Contractor hire/engage any subcontractor(s) to perform work on its behalf or in conjunction with Contractor’s work, Contractor will require such subcontractor(s) to carry the same insurance as is outlined and required below of the Contractor.

- 22.1.2. Contractor agrees to protect itself and Kenosha County under the indemnity agreement set forth in the above paragraph. Contractor will at all times during the terms of this Contract keep in force and effect the insurances listed below and such insurance policies must be issued by a company or companies rated A- VII or better by AM Best and authorized to do business in the State of Wisconsin with the following minimum limits of coverage;

Commercial General Liability *	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$2,000,000
Automobile Liability – Combined Single Limit *	\$1,000,000
Professional Liability (Errors and Omissions)	\$1,000,000
Excess/Umbrella Liability – Each Occurrence and Aggregate Limits *	\$1,000,000
Workers Compensation	Statutory Limits
Employer’s Liability – Each Accident / Disease Each Employee / Disease Policy Limit *	\$500,000 Each

*Or such higher limits sufficient for these insurance policies to be scheduled under the Umbrella policy.

- 22.1.3. Coverage afforded shall apply as primary with Kenosha County named as an additional insured on the commercial general, and excess/umbrella liability policies. Contractor shall give 30 days advance written notice of cancellation or non-renewal during the term of this Contract. An endorsement in favor of Kenosha County waiving the Contractor’s and its insurer’s rights of subrogation shall be issued with respect to the Commercial General Liability, Comprehensive Auto Liability, and Workers’ Compensation and Employers Liability policies. Evidence of this endorsement must be noted on the certificate of insurance.
- 22.1.4. Contractor shall not discontinue or change any of the above referenced liability insurance policies in effect during any part of this contract without buying “tail end” insurance to cover potential claims that may have occurred during the term of this agreement. Completed Operations and Products liability insurance shall be maintained for a period of 2-years after completion and acceptance of the Project by Contractor, or such longer period as may be reasonably required by Kenosha County. The hold harmless, indemnity and insurance provisions of this contract shall survive the termination of this contract and shall remain operative until the time that all potential claims or potential civil actions by the parties or by third parties shall expire under existing law.

22.1.5. Upon execution of this Contract, the Contractor shall furnish Kenosha County with a certificate of insurance, showing evidence of the above requirements. Certificate must be submitted to Kenosha County within four (4) business days after receipt of purchase order, execution of contract or other written authorization. If certificate is not submitted within four (4) business days, Kenosha County, at its sole discretion, may void the contract and award to the next highest scoring vendor.

22.2 CHANGES IN THE WORK

No changes in the work may be made by the Contractor without having prior written approval of the County. The County may at any time, without invalidating the Contract and without notice to Sureties, order changes in the work by written Change Order or Field Order. Such changes may include additions and/or deletions. No officer, employee or agent of the County is authorized to direct any extra or changed work verbally, except in an emergency endangering life or property. The County shall not be liable to the Contractor for any increased compensation without such written order.

22.3 NO REIMBURSEMENT FOR EXPENSE OF PROPOSALS

The County will not reimburse vendors for any costs associated with the preparation and submittal of any proposal, nor for any travel and/or per diem costs if any are incurred.

ATTACHMENT A

SIGNATURE AND AUTHORITY AFFIDAVIT FORM

COMPANY NAME: _____

FEIN (Federal Employer ID Number) _____ OR _____ Social Security # (if Sole Proprietorship)

Address: _____

City _____ State _____ Zip + 4 _____

Number of years in Business _____

Name the person to contact for questions concerning this RFP.

Name _____ Title _____

Phone () _____ Toll Free Phone () _____

Fax () _____ Email Address _____

In signing this RFP, we also certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a response; that this RFP has been independently arrived at without collusion with any other vendor, competitor or potential competitor; that this RFP has not been knowingly disclosed prior to the due date to any other vendor or competitor; that the above statement is accurate under penalty of perjury.

The undersigned, having familiarized themselves with the conditions affecting the cost of the work, having read completely the specifications, hereby proposes to perform everything required and to provide and furnish labor, materials, equipment, tools and all other services and supplies necessary to produce in a complete and workmanlike manner all of the services, materials or products described in the specifications relating to this RFP.

I further certify that I am a duly authorized agent of this company, I have examined this proposal from the written specifications and information and have checked the same in detail before submitting said proposal to the County. I have full authority to make such statements and submit this proposal, and all statements submitted are true and correct.

Signature

Title

Name (type or print)

Date

This firm hereby acknowledges receipt / review of the following addendum(s) (If any)

Addendum # _____ Addendum # _____ Addendum # _____ Addendum # _____

ATTACHMENT B

REFERENCES

Vendor: _____

Provide company name, address, contact person, telephone number, and appropriate information on the product(s) and/or service(s) provided to customers similar to those requested in this solicitation document. Potential subcontractors cannot be references. Any subcontractor arrangement for the completion of this work shall be listed on a separate page.

Company Name: _____

Address (include Zip + 4) _____

Contact Person: _____ Phone No. _____

E-Mail Address: _____

Product(s) and/or Service(s) Provided: _____

Company Name: _____

Address (include Zip + 4) _____

Contact Person: _____ Phone No. _____

E-Mail Address: _____

Product(s) and/or Service(s) Provided: _____

Company Name: _____

Address (include Zip + 4) _____

Contact Person: _____ Phone No. _____

E-Mail Address: _____

Product(s) and/or Service(s) Provided: _____

Company Name: _____

Address (include Zip + 4) _____

Contact Person: _____ Phone No. _____

E-Mail Address: _____

Product(s) Used and/or Service(s) Provided: _____

ATTACHMENT C

Cost Proposal

Proposer Name: _____

Submit original plus one copy (Submit in separate envelope within proposal package)

Lump sum to provide all labor, materials, and fees, to complete all work outlined in the statement of work per proposal terms, conditions, and specifications. (20 Points)	\$
---	----

Provide a detailed breakdown of the lump sum cost as an attachment and include it with the Cost Proposal Form.

Purchasing will score the cost proposals by prorating, with the lowest cost proposal given the highest score. The formula is as follows: Calculation of points awarded to subsequent proposals will use the lowest dollar proposal amount as a constant numerator and the dollar amount of the firm being scored as the denominator. This number is then multiplied by the number of points given to the cost section of the RFP, resulting in the cost proposal score.

$$\frac{\text{Lowest Cost Proposed}}{\text{Other Proposed Cost}} \times \text{Constant} \times \text{Maximum Points Assigned to Cost} = \text{Score}$$

Kenosha County is exempt from Federal Excise and Wisconsin Sales Taxes, 77.54(9a)(b) WI Stats.
Kenosha County's CES number is 008-1020421892-06.

ATTACHMENT D

ETHICS COMPLIANCE NOTICE & ADDENDUM

**PUBLIC NOTICE PERTAINING TO ALL REQUESTS FOR PROPOSALS AND BIDS REGARDING KENOSHA COUNTY
POLICY ON ETHICS IN GOVERNMENT**

In addition to ethical standards set forth in Wisconsin Statutes Section 19.59 for all County employees and officials [either elected or appointed] Kenosha County has adopted an Ethics Policy that is applicable to County employees in conducting county business. That policy may be reviewed at

<http://www.kenoshacounty.org/DocumentCenter/Home/View/578>

The Ethics Policy is intended to ensure that public trust in Kenosha County government is maintained and that decisions affecting the county and its citizens are made fairly and impartially for the benefit of all citizens and not for personal gain. This policy precludes:

- the misuse or misappropriation of County property or funds for personal use or otherwise,
- use or disclosure of confidential information for personal gain or otherwise,
- elimination of conflicts of interests, receipt of gifts or favors or other considerations of value by County employees,
- the use of the employee's public position to influence or gain unlawful benefits or to influence or gain advantages or privileges for the employee,
- and the conducting of personal business or campaigning during working hours.

This policy, furthermore, requires employees to disclose and report to the proper authorities any violation of this policy by either other employees or by any nonemployee or citizen seeking to or aiding or abetting in efforts to circumvent this policy. Any employee failing to make such disclosure or report is subject to discipline. Contracts with Kenosha County also require that any party contracting with Kenosha County also report any violation to either the District Attorney or Corporation Counsel for Kenosha County.

In addition, Wisconsin Statutes Sections, 946.12 involving misconduct in public office and 946.13 involving a private interest in a public contract are considered Class 1 felonies and activity considered in violation of these statutes will be reported to the Kenosha County Sheriff for investigation and the Kenosha County District Attorney for prosecution.

In submitting a bid or proposal in response to a request for bids or proposals, a party must acknowledge both in this response as well as in any subsequent contract that:

1. The party has read this notice in its entirety, understands its content and agrees to be bound by the provisions herein, and
2. The party knows of no conflicts of interest or appearance of a conflict or appearance of an impropriety on the part of any current or former county official or employee who may have had a role on deciding which proposal or bid will be accepted, and
3. It is acknowledged that it is a crime under sec. 946.13 wis. stats., if any public official or employee shall, in his or her private capacity, negotiate or bid for or enter into a contract in which he or she has a private pecuniary interest, direct or indirect, if at the same time he or she is authorized or required by law to participate in his other capacity as such officer or employee in the making of that contract or to

perform in regard to that contract some official function requiring the exercise of discretion on his or her part, nor shall any official or employee, in his official capacity, participate in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his or her part. in the event wis. stat, secs. 946.12 and 946.13 are violated, it is understood that this contract may be voided at the discretion of kenosha county.

4. Question pertaining to conflicts or appearance of an impropriety may be addressed to the office of the Kenosha County Corporation Counsel.
5. Violations are required to be reported, and
6. No attempt has been made by anyone on behalf of the party submitting the proposal or bid to directly or indirectly illegally influence the awarding of a contract by promise of or delivery of any consideration or any thing of value to a current or former county official or employee or family or household member of a current or former county official or employee, or in any other manner contrary to law, and
7. Kenosha County prohibits communication relative to this request for proposal or bid by a proposer or bidder with any county elected official or employee prior to the time an award has been made, except as provided for in this request for proposal or bid invitation. violation of this section is grounds for disqualification of the party's proposal.
8. Other than the county representative noted herein, no other employee or representative of Kenosha County is authorized to interpret any portion of the request for proposal or bid or give information as to the requirements of this request or amendment thereto. Bidders are instructed not to contact any other county department or employee regarding this proposal.
9. Written questions will be answered in writing to the proposer requesting a response. Proposer's questions and the county's responses will become a public record, and
10. The parties acknowledge that Kenosha County is a municipal corporation legally bound to comply with the wisconsin open meetings and public records law and that as such, unless otherwise allowed for by law, all aspects of this agreement are subject to open discussion and disclosure and are a matter of public record. It is furthermore agreed to that no party will take any action to obstruct the operation of these laws. If records are created or maintained or in the custody of the provider, as an independent contractor, they, along with the raw data used to create the record, are, nevertheless, public records. Within legal constraints related to confidentiality and privacy protection, such records must be made immediately available to the public upon request and in the format in which they were created. Provider agrees to hold the county harmless and to indemnify the county for all costs, fees, including all attorney fees and judgments and damages of whatever kind for which the county may be held liable due to the provider's failure to comply with the Wisconsin public records and open meetings laws, or this agreement.
11. That any subsequent finding of a violation of the county's ethics policy by any party or any agent of any party acting either alone or acting in concert with a current or former Kenosha County official or employee may result, at the sole option of Kenosha County, in any subsequent agreement being declared null and void and / or may result in the party violating this policy being debarred from submitting proposals, bids or contracting with Kenosha County for a specified period of time in the future.

ETHICS COMPLIANCE ADDENDUM

It is agreed and understood by all parties to this contract that:

1. In addition to ethical standards set forth in Wisconsin Statutes section 19.59 for all county employees and officials [either elected or appointed] Kenosha county has adopted an ethics policy that is applicable to county employees in conducting county business. That policy may be reviewed at <http://www.kenoshacounty.org/DocumentCenter/Home/View/578>. It is further understood that all county employees and officials [either elected or appointed] are prohibited from engaging in any criminal conduct contrary to Wisconsin Statutes sections 946.12 involving misconduct in public office and 946.13 involving a private interest in a public contract.
2. This ethics policy is intended to ensure that public trust in Kenosha county government is maintained and that decisions affecting the county and its citizens are made fairly and impartially for the benefit of all citizens and not for personal gain. This policy precludes the misuse or misappropriation of county property or funds for personal use or otherwise, use or disclosure of confidential information for personal gain or otherwise, elimination of conflicts of interests, receipt of gifts or favors or other considerations of value by county employees, the use of the employee's public position to influence or gain unlawful benefits or to influence or gain advantages or privileges for the employee, and the conducting of personal business or campaigning during working hours.
3. This policy, furthermore, requires employees to disclose and report to the proper authorities any violation of this policy or State Statute by either other employees or by any non-employee or citizen seeking to or aiding or abetting in efforts to circumvent this policy. Any employee failing to make such disclosure or report is subject to discipline. This contract also requires that any party contracting with Kenosha County also report any such violation to either the District Attorney or Corporation Counsel for Kenosha County.
4. By executing this contract, each party certifies that it knows of no conflicts of interest or appearance of a conflict or appearance of an impropriety on the part of any current or former county official or employee who may have had a role on deciding which proposal or bid will be accepted, and
5. By executing this contract, each party certifies that no attempt has been made by anyone on behalf of the party submitting a proposal or bid to directly or indirectly illegally influence the awarding of a contract by promise of or delivery of any consideration or any thing of value to a current or former County official or employee or family or household member of a current or former County official or employee, or in any other manner contrary to law, and
6. The parties acknowledge that Kenosha County is a municipal corporation legally bound to comply with the Wisconsin Open Meetings and Public Records laws and that as such, unless otherwise allowed for by law, all aspects of this agreement are subject to open discussion and disclosure are a matter of public record. It is furthermore agreed to that no party will take any action to obstruct the operation of these laws. If records are created or maintained or in the custody of the provider, as an independent contractor, they, along with the raw data used to create the record, are, nevertheless, public records. Within legal constraints related to confidentiality and privacy protection, such records must be made immediately

available to the public upon request and in the format in which they were created. Provider agrees to hold the County harmless and to indemnify the County for all costs, fees, including all attorney fees and judgments and damages of whatever kind for which the County may be held liable due to the provider's failure to comply with the Wisconsin Public Records and Open Meetings laws.

7. That any subsequent finding of a violation of either the County's ethics policy or Wisconsin Statutes sections, 19.59, 946.12 and 946.13 by any party or any agent of any party acting either alone or acting in concert with a current or former Kenosha County official or employee may result, at the sole option of Kenosha County, in this agreement being declared null and void and / or may result in the party violating this policy being debarred from submitting proposals, bids or contracting with Kenosha County for a specified period of time in the future.

DATED THIS _____ DAY OF _____, 20__.

Authorized Signature

Print Name

Title

ATTACHMENT E DESIGNATION OF CONFIDENTIAL AND PROPRIETARY INFORMATION

The attached material submitted in response to Bid/Proposal # _____ includes proprietary and confidential information which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, we ask that certain pages, as indicated below, of this bid/proposal response be treated as confidential material and not be released without our written approval.

Prices always become public information when bids/proposals are opened, and therefore cannot be kept confidential.

Other information cannot be kept confidential unless it is a trade secret. Trade secret is defined in s. 134.90(1)(c), Wis. Stats. as follows: "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply:

1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

We request that the following pages not be released

Section #	Page #	Topic / Description

IN THE EVENT THE DESIGNATION OF CONFIDENTIALITY OF THIS INFORMATION IS CHALLENGED, THE UNDERSIGNED HEREBY AGREES TO PROVIDE LEGAL COUNSEL OR OTHER NECESSARY ASSISTANCE TO DEFEND THE DESIGNATION OF CONFIDENTIALITY AND AGREES TO HOLD THE COUNTY OF KENOSHA HARMLESS FOR ANY COSTS OR DAMAGES ARISING OUT OF THE STATE'S AGREEING TO WITHHOLD THE MATERIALS.

Failure to include this form in the bid/proposal response may mean that all information provided as part of the bid/proposal response will be open to examination and copying. The county considers other markings of confidential in the bid/proposal document to be insufficient. The undersigned agrees to hold the state harmless for any damages arising out of the release of any materials unless they are specifically identified above.

Company Name _____

Authorized Representative _____
(Signature)

Authorized Representative _____
(Type or Print)

Date _____

ATTACHMENT F - STANDARD TERMS AND CONDITIONS

- A. SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. Kenosha County shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- B. ACCEPTANCE OF BID/PROPOSAL CONTENT:** The contents of the bid/proposal of the successful bidder will become contractual obligations if procurement action ensues.
- C. DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications of this request and the bidders/proposers shall be bound to the provisions.
- D. QUALITY:** Unless otherwise indicated in the request, all material shall be first quality, new model, and newest model year. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by Kenosha County.
- E. DELIVERY:** Deliveries shall be F.O.B. to the destination listed on the purchase order or contract. Title and risk of loss of goods shall not pass to the County until receipt and acceptance takes place at the FOB point. Contractor will be responsible to deliver to the destination shown on the purchase order, with inside delivery required at no additional charge to the County.
- F. PRICING AND DISCOUNT:**
- a) Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
 - b) In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least thirty (30) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).
 - c) Pricing errors, bids or proposals having any erasures or corrections must be initialed by the bidder/proposer in ink (preferably blue). Corrections without the signee's initials may be considered a no bid for that item.
 - d) Prices established in continuing agreements and term contracts may be lowered due to general market conditions.
- G. UNFAIR SALES ACT:** Prices quoted to Kenosha County are not governed by the Unfair Sales Act.
- H. ACCEPTANCE-REJECTION:** Kenosha County reserves the right to accept or reject any or all bids/proposals or to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal, as deemed to be in the best interests and sole discretion of Kenosha County.
- I. LATE BIDS:** Bids/proposals must be date and time stamped by the Kenosha County Purchasing Division on or before the date and time that the bid is due. Any bid that is date and time stamped in another office may not be accepted by the Purchasing Division. Receipt of a bid/proposal by the County's internal mail system does not constitute receipt of a bid/proposal by the Purchasing Division. The responsibility for submitting bids to the Kenosha County Purchasing Division on or before the stated time and date is solely that of the respondent.
- J. METHOD OF AWARD:** Bid awards shall be made to the lowest responsible, responsive bidder unless otherwise specified. Proposal awards will be made to the responsible offeror whose bid or proposal is most advantageous to the County of Kenosha, price and other factors considered. Award will be made by the County Purchasing Director (or designee).
- K. PAYMENT TERMS AND INVOICING:** Payments on this contract shall be made by check by Kenosha County upon satisfactory performance of service and submission of invoice to the County. Kenosha County usually will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.
- a) Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.
 - b) A good faith dispute creates an exception to prompt payment.
- L. TAXES:** Kenosha County is exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.
- a) Kenosha County is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its

purchases. The County may be subject to other states' taxes on its purchases in that state depending on the laws of that state.

- M. GUARANTEED DELIVERY:** Failure of the Contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the Contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include Kenosha County's administrative costs to retain such replacement.
- N. TERMINATION FOR DEFAULT:** Failure of the awardee to perform any of the provisions of this contract shall constitute a breach of contract, in which case, the County may require corrective action within ten days (10) from date of receipt of written notice citing the exact nature of such breach. Failure to take corrective action or failure to provide a written reply within the prescribed 10 days shall constitute a default of the contract. If defaulted, the Contractor shall be liable for liquidated damages, if any. Kenosha County reserves the right to enforce the performance of this contract in any manner prescribed by law in the event of breach or default of this contract, and may contract with another party with or without solicitation of bids/proposals or further negotiations. As a minimum, Contractor shall be required to pay any difference in the cost of securing the products or services covered by this contract, or compensate for any loss to the County should it become necessary to contract with another source because of this default, plus reasonable administrative costs, reasonable attorney's fees, court cost and expenses.
- O. TERMINATION FOR CONVENIENCE:** Upon seven (7) calendar days written notice delivered by first class post paid United States Mail, to the address indicated in the proposal/bid, to the successful bidder/proposer, Kenosha County may without cause and without prejudice to any other right to remedy, terminate the agreement for Kenosha County's convenience whenever Kenosha County determines that such termination is in the best interest of the County. Where the agreement is terminated for convenience of Kenosha County the notice of termination must state that the contract is being terminated to the convenience of Kenosha County under the termination clause and the extent of the termination. Upon receipt of such notice, the Contractor shall promptly discontinue all work at the time and to the extent indicated on the notice of termination. The Contractor shall also terminate all outstanding sub-contractors and purchase orders to the extent that they relate to the terminated portion of the contract and refrain from placing further orders and subcontracts except, as they may be necessary and complete any continued portions of the work.
- P. NON-APPROPRIATION OF FUNDS:** Kenosha County states that it is our intent to make all payments required to be made under any agreement resulting from this bid or proposal. However, in the event Kenosha County's legislative body, the Kenosha County Board of Supervisors, does not appropriate funds for the continuation of the agreement for any fiscal year after the first fiscal year, and it has no funds to continue the agreement from other sources, said agreement will be terminated without damages or cost for such termination.
- Q. BACKGROUND CHECKS:** All employees of the Contractor who service equipment or perform work in a County facility under this contract may be required to submit to a criminal records background check or security check on a case-by-case basis before allowed access to the facility. Contractor will be required to submit any requested identifying information for each technician, employee or subcontractor and must provide an updated list of technicians, employees or subcontractors to the Contract Manager whenever a change in staff occurs.
- R. PUBLICITY RELEASES:** Contractor agrees not to refer to award of this contract in commercial advertising in such a manner as to state or imply that the services provided are endorsed or preferred by Kenosha County. The Contractor shall not have the right to include the County's name in its published list of customers without prior written approval of Kenosha County. The Contractor further agrees not to publish, publicize, verbalize, print, tape, film, email, internet communication or any other electronic communication or cite in any form, any comments or quotes from County staff.
- S. ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, acknowledgment, or invoice shall be effective or binding unless expressly agreed to in writing by Kenosha County. Any attempt to alter or change the terms and conditions of the bid/proposal document without prior written authorization by Kenosha County shall be cause for termination of the contract at the discretion of the County.
- T. APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin; venue shall be in Kenosha County. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, rules and regulations. Kenosha County also reserves the right to cancel this contract if the County learns the contractor is debarred from a local governmental entity, the State of Wisconsin or federally debarred contractor or a contractor that is presently identified on the list of parties excluded from local or federal procurement and non-procurement contracts.
- U. ANTITRUST COMPLIANCE:** Those parties contracting with the County, or submitting bids under this Invitation to Bid, certify that with respect to all aspects of this bid and any subsequent agreement they have complied and will comply with all Federal and State Anti-Trust and Restraint of Trade laws and regulations. FURTHERMORE, said party agrees to defend and hold harmless the County of Kenosha against any claims to the contrary.
- V. ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of Kenosha County.
- W. PATENT, COPYRIGHT, TRADEMARK OR SOFTWARE LICENSE INFRINGEMENT:** The contractor selling to Kenosha County the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent, copyright, trademark or software license. The contractor covenants that it will at its own expense defend every suit which shall be brought against Kenosha County (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent, copyright, trademark or software license by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and judgments, orders reasonable expenses, reasonable attorney fees in defense of such actions, in any such suit.
- X. SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to Kenosha County must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards. The equipment or chemicals you would

supply to Kenosha County must comply with all requirements and standards as specified by the Occupational Safety and Health Administration and Wisconsin Department of Commerce. All guards and protectors as well as appropriate markings must be in place before delivery. Items not meeting current regulatory specifications will be refused. The supplier may be required to provide training to County employees in the operation and handling of the item and its maintenance, at the supplier's expense and at the convenience of the County.

- Y. WARRANTY:** The equipment manufacturer's standard warranty shall also apply as a minimum warranty and must be honored by the contractor. If there are no standard manufacturer's warranties and unless otherwise specifically stated by the bidder/proposer, equipment, materials, products purchased as a result of this request shall be warranted against defects by the bidder/proposer for a minimum of one (1) year from date of receipt.
- Z. PUBLIC RECORD LAW COMPLIANCE:** It is the intention of Kenosha County to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid / proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.
- a)** The Parties acknowledge that Kenosha County is a municipal corporation legally bound to comply with the Wisconsin Public Records Law and Open Meetings Law (see sections 19.32-19.39 & 19.81-19.98, Wis. Statutes) and that, unless otherwise clearly allowed by law to be an exception to the Public Record Law and confidential, all aspects of this agreement are subject to open disclosure and are a matter of public record. It is further agreed to that neither party will take any action to obstruct the operation of these laws. To comply with any request under said Public Record Law, the provider/contractor herein shall produce copies of all materials gathered or produced or modified pursuant to this contract to Kenosha County, in their original (i.e., electronic or digital, etc.) format at actual cost of reproduction, without profit. According to Wisconsin case law, even if records are created or maintained by, or in the custody of, the provider as an independent contractor, they, along with the raw data used to create the record, are nevertheless public records that must be made available to the public within a reasonable time and without delay upon request by any person, and in the format in which they were created. Provider/contractor agrees to hold Kenosha County, its agents, officials and employees harmless and to indemnify them and Kenosha County for all costs, fees, including all reasonable attorney fees and expense of all kinds, and any judgments, orders, injunctions, writs of mandamus, and damages or expense of whatever kind for which Kenosha County or its agents, officials or employees may expend or be held liable due to the Provider/contractor's failure to comply with the Wisconsin Public Records and Open Meetings laws, or with this agreement.
- b)** Any Public Record Law request received directly by a contractor related to this contract with Kenosha County shall immediately be reported to the contract manager for the County.
- AA. PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request or a contract, must be clearly stated in the bid/proposal or contract itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin Public Records Law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.
- a)** Data contained in a bid / proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data obtained and all documentation, and innovations developed as a result of the bid / proposal process and or contract shall become the property of Kenosha County.
- b)** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form obtained from the Kenosha County Purchasing Division. Bidders / proposers may request the form if it is not part of the Invitation for Bid / Request for Proposal package. Bid / proposal prices cannot be held confidential.
- BB. CODE OF ETHICS:** It is acknowledged that Kenosha County officials are bound by the State of Wisconsin Ethics Code and the Kenosha County Ethics Policy. In the event that any party or any agent of any party acts in concert with a Kenosha County official or employee in such a manner as to violate any such ethics provision this Agreement may, at the sole option of Kenosha County, be declared null and void.
- CC. NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAMS**
In the performance of work under this Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or handicap, which 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 forms of compensation; and selection for training, including apprenticeships. Contractor will post in conspicuous places, available for employees of the Contractor and applicants for employment, notices setting forth the provisions of the non-discriminatory clause.
- Contractor is an individual and/or small business. The Equal Employment Opportunity Commission has promulgated specific guidelines governing equal employment responsibilities in this context (known as "contingent employment"), and consistent with this approach, the Department of Labor has expressly excluded temporary employees from the EEO-1 reporting requirements. Accordingly, in compliance with these guidelines, Kenosha County has promulgated internal policies and procedures designed to ensure that contingent workers are hired and placed based solely upon their qualifications.
- When a violation of the non-discrimination, equal opportunity or affirmative action provisions of this section has been determined by the County, Contractor shall immediately be informed of the violation and directed to take all action necessary to halt the violation, as well as such action as may be necessary to correct, if possible, any injustice to any person adversely affected by the violation, and immediately take steps to prevent further violations. If, after notice of a violation to Contractor, further violations of this section are committed during the term of the Contract, the

County may terminate the Contract without liability for the uncompleted portion or any materials or services purchased or paid for by the Contractor for use in completing the Contract, or it may permit Contractor to complete the Contract but, in either event, Contractor may be ineligible to participate in future contracts with the County.

- DD. SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Safety Data Sheet as amended from time to time or other applicable regulations for each item with the shipped container(s) and one (1) copy with the invoice(s).
- EE. FORCE MAJEURE:** Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the United States government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.
- FF. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:** By signing this bid/proposal, the bidder/proposer certifies, and in the case of a joint bid/proposal, each party thereto certifies as to its own organization, that in connection with this procurement:
- a) The prices in this bid/proposal 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/proposer or with any competitor;
 - b) Unless otherwise required by law, the prices which have been quoted in this bid/proposal have not been knowingly disclosed by the bidder/proposer and will not knowingly be disclosed by the bidder/proposer prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other bidder/proposer or to any competitor; and
 - c) No attempt has been made or will be made by the bidder/proposer to induce any other person or firm to submit or not to submit a bid/proposal for the purpose of restricting competition.
 - d) Each person signing this bid/proposal certifies that: He/she is the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to FF(a) through FF(c) above; (or)
 - i) He/she is not the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated, and will not participate in any action contrary to FF(a) through FF(c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to FF(a) through FF(c) above.
- GG. DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:** Prior to award of any contract, a potential contractor shall certify in writing to the procuring agency that no relationship exists between the potential contractor and the procuring or contracting agency that interferes with fair competition or is a conflict of interest, and no relationship exists between the contractor and another person or organization that constitutes a conflict of interest with respect to a county contract. The Kenosha County Purchasing Division may waive this provision, in writing, if those activities of the potential contractor will not be adverse to the interests of the county.
- HH. EMPLOYMENT:** The contractor will not engage the services of any person or persons now employed by Kenosha County, including any department, commission or board thereof, to provide services relating to this agreement without the written consent of the employing office of such person or persons and the Kenosha County Purchasing Director.
- II. RECORD KEEPING AND RECORD RETENTION:** The contractor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, state and local ordinances.
- a) Kenosha County shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the contractor. The contractor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.
- JJ. INDEPENDENT CAPACITY OF CONTRACTOR:** The parties hereto agree that the contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the county. The contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the County.
- KK. LITERATURE AND SAMPLES:** When required, literature and/or samples are to be labeled with the bid/proposal number, bid/proposal title, bid/proposal opening date, bid/proposal line number and the part number of the item that was bid/proposed. Literature and/or samples will be sent with the bid, or when requested by the Kenosha County Purchasing Department, to a designated address or to the Kenosha County Purchasing Department. 1010 – 56th Street, 2nd FL, Kenosha, WI. 53140. Samples will be returned at the expense of the bidder/proposer, upon request.
- LL. PERMITS AND INSPECTION:** When required any and all permits and inspections shall be included in the bid price and shall not be an additional cost to the County.

MM. OPTIONAL COOPERATIVE PURCHASING AGREEMENT: It is intended that any other public agency (i.e., city, county, district, public agency, municipality or state agency) shall have the option to participate (A.K.A. "join" or "piggyback") in any award made as a result of this solicitation under the same terms and conditions. The County of Kenosha shall incur no financial responsibility in connection with purchase orders or contracts made by the bidder with another public agency resulting from this solicitation. The public agency utilizing the original contract shall accept sole responsibility for placement of orders and applicable payments to the vendor. Should the Bidder not wish for a contract resulting from this bid to be used by other public agencies, they have the option to decline at the time of request.

NN. ORDER SEQUENCE FOR BID/PROPOSAL DOCUMENTS: In the event that any information is listed in this document more than once, the order of document sequence listed below prevails:

- a) All Standard Terms and Conditions are superseded by
- b) Special Terms and Conditions, are superseded by
- c) The Specifications.