



**THE COMMISSIONERS OF KENT COUNTY, MARYLAND
REQUEST FOR PROPOSAL**

PW 23-15

**FOR
PETROLEUM FUELS AND PROPANE
DELIVERY SERVICES**

Director of Public Works
709 Morgnec Road
Chestertown, Maryland 21620

SCHEDULE

RFP # PW 23-15

<u>Date</u>	<u>Step</u>
May 26, 2023	Begin Solicitation: Mail/Email Notices to Bidders on Bid List; Post on eMaryland Marketplace Advantage (eMMA) and Kent County's Website. No Pre-bid meeting.
June 6, 2023	12:00 p.m. Last date for questions or information.
June 13, 2023	10:00 a.m. Bid Opening at Public Works Complex.
June 20, 2023	Tentative Award by County Commissioners.

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SECTION A. GENERAL MATTERS

1. Summary

The County Commissioners of Kent County, Maryland, a body corporate, politic and a political subdivision of the State of Maryland (the “County”) is requesting proposals from qualified bidders for the delivery of petroleum fuels and propane to various county buildings or municipal properties from July 1, 2023 to June 30, 2024, in respect to the Fiscal Year timeline, and in accordance with Chapter 49 of the Code of Public Local Laws of Kent County (CPLL).

2. Issuing Office

Daniel F. Mattson, P.E., C.F.M
Deputy Director of Public Works
709 Morgnec Road
Chestertown, MD 21620

Telephone #: (410) 778-2600
dmattson@kentgov.org

The individual listed above shall serve as the “Director of Purchasing” and as the sole point of contact for purposes of this procurement.

3. Silence of Specification

The apparent silence of the specifications as to any detail, or the apparent omission from it of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality are to be used. Proof of specifications compliance will be the responsibility of the vendor.

4. Preparation of Proposal

- a. The bidder’s proposal shall be written in ink or typewritten on the form provided.
- b. If items are listed with a zero quantity, bidder shall state unit price **ONLY** (intended for open end purchases where estimated requirements are not known). The proposal shall show a total bid price for each item bid and the total bid price of the proposal, excluding zero quantity items.

5. Prices Quoted

The prices quoted are those for which the material will be furnished F.O.B. Destination and must include all charges that may be imposed during the period of the contract.

6. Samples or Brochures

Samples or brochures may be required by the County for evaluation purposes. They shall be such as to permit the County to compare and determine if the item offered complies with the intent of the specifications.

7. Questions and Inquiries

All questions and inquiries regarding the terms of this RFP should be directed to the Director of Purchasing identified in Section A.2. prior to the pre-bid meeting.

Questions subsequent to the pre-bid meeting, when required, must be submitted in writing to the person below.

Please refer any questions to: Daniel F. Mattson P.E., C.F.M., Deputy Director of Public Works
Kent County Department of Public Works
Phone: 410-778-2600
Email: dmattson@kentgov.org

Questions must be received by 12:00 p.m. on June 6th, 2023. A summary of questions and answers, including those addressed at the pre-bid meeting conference, will be distributed to all attendees of the pre-bid meeting and any others known to have received the bid documents.

Written responses published within 48 business hours shall be considered the official answers and shall supersede any verbal discussions. Verbal answers at or subsequent to the pre-bid meeting, if required, are not binding and reliance should not be placed on the same.

8. Submission Deadline and Instructions

All proposals must arrive at the Attention of the Director of Purchasing (“Issuing Office”) by June 13th, 2023, no later than 10:00 A.M. to be formally considered. Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail and internal delivery time to ensure timely receipt at the Issuing Office. Proposals or unsolicited amendments to proposals arriving after the closing date and time will **NOT** be considered.

Bidders are cautioned that bids mailed, shipped by express, sent by courier, or hand-delivered to arrive the day of the bid opening must be in the hands of the Issuing Office no later than 10:00 a.m. on the date specified. Bids received later than that time will be returned unopened. Please check your method of delivery to see if it conforms to this requirement. Proposals must be mailed, shipped, or hand delivered to the following address:

Director of Purchasing
Issuing Office
Kent County Department of Public Works
709 Morgnec Road
Chestertown, Maryland 21620-1312

BIDDERS ARE ADVISED THAT MAIL IS DELIVERED ONCE A DAY, AND USUALLY ARRIVES AFTER THE TIME SPECIFIED FOR BID DELIVERY ON THE APPLICABLE DATE.

BIDS WILL NOT BE ACCEPTED AT ANY OTHER LOCATION.

THE COUNTY WILL NOT BE RESPONSIBLE FOR ANY BIDS DELIVERED TO ANY OTHER LOCATION THAN THE ISSUING OFFICE OF THE DIRECTOR OF PURCHASING, WHETHER SUCH OTHER LOCATION IS A COUNTY OFFICE OR OTHERWISE.

All proposals must be in a sealed envelope with the following information clearly printed on the outside:

THIS IS A SEALED BID PROPOSAL FOR

KENT COUNTY – PW 23-15

Please note that if a bid is mailed, sent by messenger service, or delivered by commercial carrier (e.g. FEDEX, UPS, etc.). **THE OUTSIDE ENVELOPE, AS WELL AS THE INSIDE ENVELOPE, IF ANY, MUST CONTAIN THE LEGEND SHOWN ABOVE.** County staff receives many items by such services and if the legend does not appear, a response may be misrouted or delayed in opening. The bidder takes full responsibility for the legend and **THE COUNTY WILL NOT DEEM A BID AS TIMELY RECEIVED, EVEN IF RECEIVED ON TIME, IF OPENED LATER THAN THE DEADLINE DUE TO LACK OF THE APPROPRIATE LEGEND ON THE MAILER/OUTSIDE ENVELOPE.**

9. Duration of Offer

Unless otherwise specified by the County, proposals submitted in response to this solicitation are irrevocable for ninety (90) days following the closing date. This period may be extended only with the offeror's written agreement.

10. Withdrawal of Proposals

A bidder may withdraw its proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

11. Public Inspection of Proposals

If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions. The bidder shall include with this designation a statement that explains and supports for firm's claim that the bid items identified as confidential contain trade secrets or other proprietary data.

12. Changes in Contract Documents

Changes to contract documents shall be made only in writing and copies will be emailed, faxed, or mailed to all known prospective bidders. The County assumes no responsibility for verbal instructions or interpretations. The contract documents contain the provisions required for the contract. Information obtained from an officer, agent, or employee of the County or any other person shall not affect the risks or obligations assumed by the bidder or relieve him of fulfilling any of the conditions of the contract.

13. Revisions to the RFP

If it becomes necessary to revise this RFP, amendments will be provided to all prospective offerors that were sent this RFP or are known otherwise by the Director of Purchasing to have obtained this RFP. Acknowledgment of the receipt of all amendments will be required.

14. Cancellation of the RFP; Rejection of All Proposals

The County may cancel this RFP, in whole or in part, or may reject any/all proposals submitted in response

whenever this action is determined to be in the best interest of the County. Kent County shall have no liability or obligation to any of the proposers preparing or submitting proposals under this RFP.

15. Proposal Acceptance; Discussions

The County reserves the right to accept or reject any or all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities; and to conduct discussions with all qualified offerors in any manner necessary to serve the best interests of the County. The County also reserves the right, at its sole discretion; to award a contract based upon the written proposals received without prior discussions or negotiations.

16. Disqualification of Bidders

Any one or more of the following causes may be considered sufficient for the disqualification of a bidder and the rejection of its proposal(s):

- a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among bidders.
- c. Unsatisfactory performance record as evidenced by past experience.
- d. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- e. If there are any unauthorized additions, interlineation, conditional, or alternate bids or irregularities of any kind which may render the proposal incomplete, indefinite, or ambiguous as to its meaning.
- f. Non-attendance of mandatory pre-bid meetings may be cause of disqualification.

17. Bid Opening

All bids will be opened and publicly read by designated County staff at 10:00 a.m. on June 13th, 2023 at the Department of Public Works Complex, located at 709 Morgnec Road, Chestertown, Maryland 21620. Bidders and other interested parties are invited to attend these public forums.

18. Omission of Specifications

The omission of any specifications, or details of any specifications which would normally apply to the products or service herein stated, shall not relieve the bidder from fulfilling the required specifications necessary to provide a finished product best suited for the intended purpose. The best commercial practices are to prevail, and only materials of first quality, correct type, size, and design are to be used.

Workmanship shall be of first quality. All parts and materials, whether specified herein or not, shall be rated to meet or exceed the maximum rating required by the product or service and its maximum intended purpose.

19. Incurred Expenses

The County will not be responsible for any costs incurred by an offeror in preparing and submitting a proposal in response to this RFP.

20. Compliance with Law

By submitting an offer in response to this RFP, the offeror, if awarded the contract, agrees that it will comply with all federal, state, and local laws applicable to its activities and obligations under the contract.

21. Acceptance of Terms and Conditions

By submitting a response to this RFP, an offeror shall be deemed to have accepted all the terms, conditions, and requirements set forth in this RFP unless otherwise clearly noted and explained in its proposal. All proposals submitted in response to this Request for Proposal become the property of the County.

All County agreements are subject to the County's General Terms and Conditions unless otherwise specifically changed or waived hereunder or in the Contract.

22. Term

Any contract(s) resulting from this procurement will be for the stated period referenced therein; however, all contracts are subject to non-appropriations and termination for convenience clauses.

23. Failure To Deliver or Perform

In the event the offeror fails to deliver the goods or services covered by the contract and in accordance with the delivery dates stipulated in the contract, the County reserves the right to purchase on the open market those goods and services which the offeror has failed to deliver and shall deduct any additional costs incurred by the County as a result of such failure to deliver, from any money due to the offeror under the contract or other contracts with the County.

24. Termination of Contract

The County reserves the right to cancel the contract entered into as a result of this bid if, in its opinion, there shall be a failure on the part of the offeror at any time to perform faithfully any of the contract requirements.

Should the offeror fail to comply with contract requirements, except for circumstances beyond its control such as, but not limited to an Act of God, war, flood, and governmental restrictions, the County reserves the right to purchase the required goods or services in the open market and charge the offeror with any excess costs, or to complete the required work or obtain the required goods at the expense of the offeror and to withhold any monies that may be due or become due and apply same to any expenses or excess costs incurred to the County.

The County may terminate this agreement at any time, for any reason, and shall be liable only for time and costs incurred as of the date of termination.

25. Changes to the Contract

The County may at any time make changes within the general scope of the contract in the design or specifications of the services to be delivered. The contract shall be modified in writing to reflect any equitable adjustment caused by any increase or decrease in the offeror's cost or time required for performance or change in scope of service. The County reserves the right to increase or decrease quantities and/or projects at their discretion.

26. Agreement/Contract

Any agreement or contract resulting from the acceptance of a Proposal shall be on forms either supplied by or approved by the County and shall contain, at a minimum, applicable provisions of the Request for Proposal. The County reserves the right to reject any agreement that does not conform to the Request for Proposal and any County requirements for agreements and contracts.

27. Contract and Related Data

No reports, information or data given to or prepared by the County under the contract shall be made available to any person by the firm without the prior written approval of the County.

28. Contract Award

It is the intent of the County to award a contract to the lowest qualified responsible and responsive bidder within thirty (30) calendar days following bid opening; however, the County requires bidders to sign the "Standard Bid Acceptance" form to guarantee their bid for a period of ninety (90) days following the bid opening date. The County reserves the right to reject any and/or all bids.

The County reserves the right to award all or any of the individual Bid Items depending on the lowest responsible bid for the Bid Items selected.

The County also reserves the right to further negotiate further the terms of the contract, including the award amount, with the selected bidder prior to entering into a contract. If contract negotiations cannot be concluded successfully with the selected bidder, the County may negotiate a contract with the next selected bidder, and so on. The County reserves the right to negotiate with the bidder whose proposal is the closest to being acceptable or to seek additional proposals after the proposal date. The County reserves the right to waive any irregularities and technicalities and may, at its discretion, request a follow-up or amended proposal.

29. Contract Extension

Any contract(s) resulting from this RFP shall be eligible for a one (1)-year extension for up to three (3) additional terms and may be approved upon mutual agreement.

30. Contract Documents

The Contract Documents shall include this RFP, Schedule, Information to Bidders, Bid Forms, Specifications, Drawings, Addenda, the County General Terms and Conditions, the resulting contract, and any other documents which are clearly intended to be a part of the terms, conditions, requirements, and specifications for the subject products or services.

31. Kent County Purchasing Code

All County purchases are subject to and to be accomplished in accordance with Chapter 49 of the CPLL. Bidders should familiarize themselves with Chapter 49. A copy of Chapter 49 may be obtained from the Clerk of the County Commissioners, by phone at 410-778-4600 or is available online through the County's website at <http://www.kentcounty.com/>.

32. Termination for Convenience

Contracts shall remain in effect for the time duration and quantity specified unless the contract is terminated by the County. The County may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of termination.

33. Termination for Cause

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

34. Non-discrimination

The County is an equal opportunity employer. The County complies with Title VI of the Civil Rights Act of 1964, which provides that no person shall be denied on the grounds of race, color, or national origin, be excluded from, be denied the benefits of, or discriminated against under any program or activity receiving Federal financial assistance. **Each bidder shall verify through execution of the bid form that it does not discriminate on the basis of race, color, creed, religion, gender, age, lawful sexual orientation, marital status, national origin, or on any other basis generally prohibited by any federal, State, or local law, rule, or regulation.**

35. Kent County Ethics Ordinance

By submitting a bid in response hereto, the bidder acknowledges that it is familiar with the County's Code of Ethics, CPLL, Chapter 29, and certifies that it has no knowledge of any violation of that Chapter, any conflict of interest which may exist or arise under Chapter 29 if the bidder is awarded a contract, and of giving any gift (as that term is defined in Chapter 29) to anyone who has or may participate in the awarding of this contract or the management or supervision thereof. Contact the County's Attorney Office at 410-810-0428 if any additional information is required. A copy of Chapter 29 may be obtained from the Clerk of the County Commissioners at 410-778-4600 or can be found online through the County's website at <http://www.kentcounty.com/>.

SECTION B. BID PROPOSALS AND RELATED MATTERS

1. Pre-Bid Meeting

None Scheduled.

2. Presentation

Offerors may be required to make individual written or oral presentations to the County representatives in order to clarify their proposals.

3. Proposal Form

Proposals should be simply and economically prepared to provide a straightforward, concise description of the offeror's proposal for meeting the requirements of this procurement.

4. Bid Forms

All Bids must be made on the required bid forms. All blank spaces for bid prices must be completed in ink or typewritten, and the bid form must be fully completed and executed when submitted. Unless otherwise specifically required, only one copy of the bid form is required. A conditional or qualified bid will not be accepted. The base price on the bid form shall be the total cost of the item being bid in accordance with the specifications in the RFP. Alternates shall only be used to reflect increases or decreases in the base bid price. Only those alternates which are specifically requested by the County will be considered.

5. Bid Notice Disclaimer

The mailing of bid solicitations (notices) to incumbent and/or potential vendors of goods and services is a courtesy extended by the County, as well as a method for generating interest among vendors. For purposes of bidding opportunities, generally, interested vendors should rely on the public notices published in the newspapers of general circulation in Kent County and through online platforms such as Kent County's website (<https://www.kentcounty.com/government/rfp>) and eMaryland Marketplace Advantage (eMMA).

6. Bid Surety

NOT REQUIRED FOR THIS CONTRACT.

~~All bids shall be accompanied by a Bid Surety in the form of a certified check, or bid bond, made payable to the County Commissioners of Kent County, Maryland for the penal sum of 5% of the bid price. Bid Surety will be returned to all bidders upon completion of the contract award process, with the exception of the successful bidder. Non-Performance or failure to sign the contract within ten (10) business days after the award, (or later within the bid guarantee period at the discretion of the County), or withdrawal of a bid subsequent to opening but prior to award, shall result in forfeiture of the Bid Surety. Any Bid Surety and related forms and instruments required must be executed and attached to the bid submittal.~~

7. Waiver of Technicalities

The County reserves the right to waive formalities or technicalities in bids, as the interest of the County may require in accordance with the terms of the County's Purchasing Ordinance, Chapter 49, Code of

Public Local Laws of Kent County, Maryland (“CPLL”).

8. Basis of Award

All responsive proposals from responsible bidders will be eligible for contract award, based on the following:

- a. Lowest price from a responsive and responsible bidder as indicated by the total price on the bid form for the Bid Items selected by the County. The County reserves the right to select any combination of Base Bid and Add-Alternate items.
- b. Compliance with specifications.
- c. Compliance with terms of the bid package.
- d. Ability to perform or deliver on time.

The County may undertake such investigations or inquiries as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish the County with all requested information and data for this purpose.

9. Modification or Withdrawal of Bids

- a. Pre-Opening Modification or Withdrawal of Bids:
Bids may be modified or withdrawn by written notice received by the Clerk of the County Commissioners before the time and date set for bid opening.
- b. Disposition of Bid Bond:
If a bid is withdrawn in accordance with this regulation, the Bid Bond, if any, shall be returned to the Bidder.
- c. Late Bids, Late Withdrawals, and Late Modifications:
Any bid and any request for Withdrawal or Modification received after the time and date set for receipt and opening of bids is late and will be disregarded.

10. Performance and Payment Bonds

NOT REQUIRED FOR THIS CONTRACT.

~~In accordance with the specifications, the selected bidder will be required to furnish a Performance Bond and a Payment Bond, each in an amount of one hundred percent (100%) of the contract price. The successful bidder shall be required to furnish the bond(s) at the time of the execution of the contract. Where attorneys-in-fact sign bid, payment, and/or performance bonds, bidders must provide with each bond, a certified and effective dated copy of their Power of Attorney. The bidder to whom the contract is awarded will be required to execute the contract and obtain the requisite bonds within ten (10) calendar days from the date when Notice to Award is delivered by the County to the bidder.~~

11. Substitutions

The material, products, and equipment described in the bidding documents establish a standard of required

function, dimension, appearance, and equality to be met by any proposed substitution, unless specifically stated otherwise. No substitutions will be considered prior to receipt of the bids unless a written request for approval has been received at least ten (10) days prior to the receipt of bids. Each such request shall include the name of material or equipment for which a substitution is proposed and a complete description of the proposed substitute including drawings, cuts, performance, test data, and any other information necessary for evaluation.

12. Alternates

An alternate is a dollar amount to be added to or subtracted from the base bid price. The County may request alternate prices to compare various options that may be in their best interest. The County shall have the right to accept alternates in any order or combination, and to determine the low bidder on the basis of the base bid and alternates accepted.

13. Addenda

Addenda, if any, will be emailed, mailed, or delivered to all that are known to have received a complete set of bidding documents and will be posted on the eMaryland Marketplace Advantage. Copies of Addenda will be made available for inspection wherever bidding documents are on file for that purpose. No addenda will be issued later than three (3) days prior to the date for receipt of bid, except an Addendum withdrawing the request for bids or one which includes postponement of the date for receipt of bids.

14. Trade and Brand Names

Unless specifically provided otherwise in an RFP, the use of or references to any trade or brand names in this bid package shall be solely for the purpose of establishing a standard and shall in no way infer that other trade and brand names will not be acceptable.

15. Product Literature

Bidders shall include with their bid submittal literature detailing make, model, and specifications of the product which they are bidding, if applicable.

16. Exceptions to Bid Specifications

Any bidder taking an exception to the stated specifications or requirements must make such exceptions clear and in writing, and shall attach such exceptions to, or include them in, the sealed bid proposal. This section is not to be construed to mean that the county is obligated to accept any such exception.

THE COUNTY IS NOT OBLIGATED TO ACCEPT ANY BID NOT IN CONFORMANCE WITH BID SPECIFICATIONS AND MAY REJECT SUCH BIDS WITHOUT COMMENT OR REVIEW. BIDDERS TAKING SUCH EXCEPTIONS DO SO AT THEIR OWN RISK.

17. Time of Delivery

The Contractor, after receipt of written notice of the award of the contract and receipt of the purchase order, shall diligently prosecute same so that it will be fully completed within the number of consecutive calendar days stated in the proposal. Calendar days for completing delivery of the bid items shall start from the date of notice of said award and purchase order.

18. Default in Contracting

Should the bidder to whom the contract is awarded fail or be unable to execute the contract for any reason within seven (7) calendar days after notification of award, then an amount equal to the difference between the accepted bid price and that of the next highest bidder shall be forfeited to the owner as liquidated damages.

19. Payment Terms

Payment will be made only for properly approved invoices supported by adequate information and details enabling the County to determine that the appropriate level of performance has been reached, including invoices for materials already delivered and services already performed. Otherwise, payment will not be made. Invoices must include the period covered and a detailed itemization of the items or services included in the invoice, which shall be subject to review by the County. Invoices shall be submitted monthly (for ongoing projects or orders) or within thirty (30) days of delivery or completion (for single service or delivery contracts) by paper or by email. Approved payment shall be made to the contractor within forty-five (45) calendar days of receipt of an acceptable invoice. Invoices shall be mailed or emailed directly to the designated Contract Administrator.

20. Kent County Substance Abuse Policy

The County adopted the “Kent County Government Substance Abuse Policy,” a policy to which the successful bidder must strictly adhere. Prospective bidders are cautioned to make themselves familiar with the policy. **Bidders must state on the “Standard Bid Form” whether or not you have a drug abuse program in effect.**

21. Insurance

Prior to execution of this contract, the successful bidder shall submit a “**Certificate of Insurance**” indicating it carries the appropriate insurances in the amount specified in this RFP. Coverages shall be maintained continuously throughout the term of the contract with no lapses in coverage. Unless otherwise specified, coverage levels shall be required as follows:

- a. ~~Professional malpractice, negligence, and errors and omissions coverage in minimum amounts of \$2,000,000.00 per event and \$1,000,000.00 per person.~~ **Not Required**
- b. General Liability - Minimum - \$2,000,000.00 per occurrence.
- c. Workers’ Compensation Insurance as required by law.
- d. Comprehensive Liability Insurance with minimum limits of \$1,000,000.00 per person, \$2,000,000.00 per occurrence. Policy shall include the broad form of Comprehensive General Liability Endorsement or its equivalent.
- e. All required coverages shall include and specifically name the County as an additional insured and loss payee with respect to all operations under the contract, and for the duration of the contract, in full.
- f. The successful bidder will furnish the County any up-to-date certificates of insurance stating the

requirements listed above at contract implementation and should insurance coverage change or be renewed at any time.

22. Immigration Law Compliance

By submitting and signing a proposal, each bidder hereby certifies that it does not, and if awarded the contract, will not during the performance of the contract, employ illegal workers or otherwise violate any provisions of any applicable federal, State, or local law concerning the employment of illegal aliens, the certification of nationality of workers, or otherwise.

23. Federal Taxpayer Identification Certificate (W-9)

All first-time successful bidders doing business with the County must submit a completed standard “Federal Taxpayer Identification Certificate – W9” with accurate remit-to address for payments and correspondence and is to be signed and dated for the current calendar year.

SECTION C. SCOPE OF WORK, SPECIFICATIONS AND RELATED MATTERS

PETROLEUM FUELS AND PROPANE GASBID SPECIFICATIONS

GENERAL:

1. This project will be broken into four individual contracts, as show later in this section. Each contract will include buildings or properties requiring delivery of petroleum fuels or propane. Bidders may submit prices for one or all contracts. Each contract will be reviewed and awarded individually. Bids must besubmitted on the enclosed bid forms. Bidders shall mark the lower left-hand corner of the sealed envelope “Sealed Bid for PW 23-15: Fuel & Propane”.

2. **Prices quoted shall be the delivery charge only for each location using estimated annual quantities as stated. Prices quoted shall not include the price of fuel, only delivery charge per gallon.** Bidders must state the name of supplier and depot location to be used during the contract period. Payment will be based upon rack prices shown in Oil Price Information Service (OPIS) for the time of delivery plus the quoted delivery charge bid. **All invoices must include proof of the OPIS posted rack price or a copy of a letter from the supplier showing the posted rack price at the time of delivery. All invoices must clearly identify facility and department where fuel was delivered.** Any terms on regular-grade 87-octane gasoline, diesel fuel or propane shall not include state or federal tax.

3. Specifically for contract “C” - Propane, bidders are instructed that present tanks and stage regulators at all locations are owned by the County or our present supplier(s). All present tanksand regulators must remain in place. The selected company for this RFP, if other than present supplier, must compensate current owner by either paying the County the fair market value for the tanks and regulators in place or supply them with new tanks and regulators, and deliver same to their designated locations.

4. The successful bidder shall be responsible to ensure that amounts of heating fuel and propane at all County facilities are sufficient to run the heating system throughout the heating season. Failure to do so shall result in cancellation of existing contract(s) and the payment by the contractor of any damages that occurred while heating system(s) were down.

5. Before submitting a bid proposal, bidders shall carefully examine the specifications and other bid documents, shall have the option to visit the various sites prior to the questions deadline (June 6th, 2023), and shall fully inform themselves as to all existing conditions and limitations. Information given verbally is general and it shall be the bidder’s responsibility to interpret such and make any necessary corrections when preparing his bid. Please direct all questions or requests for further detail to Daniel F. Mattson, Director of Purchasing for this procurement and Deputy Director of Public Works for Kent County, MD.

6. The supplier shall indemnify, save harmless and defend the County and all of its representatives from all suits, actions or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any work performed under these contracts, either by the supplier, or their employees, agents or representatives. Please include these clauses in the Certificate of Insurance when submitting a bid.

7. The County Commissioners of Kent County reserve the right to waive any informality in a bid, to reject the bid of a bidder who has previously failed to perform properly or complete on time contracts of a similar nature, and to reject the bid of a bidder who is not, in the opinion of the County Commissioners’, in

a position to perform the contract.

8. The County Commissioners reserve the right to terminate any contract at any time should the service provided be unacceptable to the County.

METHOD OF PAYMENT:

1. The supplier shall furnish all labor, materials, and equipment necessary to perform the work as specified in these documents. Invoices must be generated and submitted to the County within thirty (30) days following each fuel delivery.

2. Invoices shall be submitted to the billing address shown for the various departments. **All invoices must include a copy of the OPIS rack price at the time of delivery.**

3. Invoices shall be formatted to include specified information regarding the bulk delivery of fuel, including but not limited to the:

- Date of Delivery (include date of order, if applicable, when not routine/scheduled delivery);
- Exact physical location of the tank;
- Tank size and rated fuel capacity;
- Grade of fuel or propane being delivered;
- Amount of fuel already in the tank (note starting point of fill on delivery ticket – please measure **prior** to delivery execution);
- Amount of fuel actually delivered – number of gallons required to fill the tank to full-rated capacity; and
- Delivery price per gallon at the time of delivery.

PLEASE SEE NEXT PAGE FOR CONTRACTS AND BID SHEETS.

CONTRACT "A" – DIESEL FUEL

ULTRA LOW SULPHUR DIESEL

LOCATION	TANK SIZE	ANNUAL USAGE
Public Works Department County Roads Division 709 Morgnec Road Chestertown, MD	10,000 gal.	80,000 gal.

Billing Address: 709 Morgnec Road, Chestertown, MD 21620

Contact Person: Vickie Quinn 410-778-4252

DYED ULTRA LOW SULPHUR DIESEL

Parks & Recreation Maintenance Facility 10932 Worton Road Worton, MD	500 gal.	2,000 gal.
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Billing Address: 709 Morgnec Road, Chestertown, MD 21620

Contact Person: Mark Dixon 410-778-390

CONTRACT "B" – HEATING OIL

LOW SULPHUR HEATING OIL

LOCATION	TANK SIZE	ANNUAL USAGE
Parks & Recreation Maintenance Facility 10932 Worton Road Worton, MD	2-250 gal. tanks	2,000 gal.

Billing Address: 709 Morgnec Road Chestertown, MD 21620
Contact Person: Mark Dixon 410-778-3904

County Detention Center Flatland Road Chestertown, MD	10,000 gal.	20,000 gal.
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Billing Address: 709 Morgnec Road, Chestertown, MD 21620
Contact Person: Bob Merritt 410-778-7410

Emergency Medical Services Facility 11528 Lynch Road Lynch, MD	500 gal.	1,000 gal.
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Billing Address: 709 Morgnec Road, Chestertown, MD 21620
Contact Person: Bob Merritt 410-778-7410

CONTRACT "C" - PROPANE

LOCATION	TANK SIZE	ANNUAL USAGE
Public Works Complex 709 Morgnec Road Chestertown, MD "Office Heating"	1,000 gallon above ground tank 1st & 2-2nd stage regulators	5,000 gal.
Public Works Complex 709 Morgnec Road Chestertown, MD Sign Shop	1-500 gallon above ground tank	1,000 gal.
Public Works Complex 709 Morgnec Road Chestertown, MD "Shop Heating"	2-1,000 gallon above ground tanks 2-1st & 2-2nd stage regulators	7,000 gal.

Billing Address: 709 Morgnec Road, Chestertown, MD 21620

Contact Person: Bob Merritt 410-778-7410

Roads Division Rt. 445 Nike Base "Tolchester" Refill liquid tanks	1-500 gallon above ground tank w/LP pump 2-100 lb. liquid tanks	6,000 gal.
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Billing Address: 709 Morgnec Road, Chestertown, MD 21620

Contact Person: Vickie Quinn 410-778-4252

Kent County Court House 103 N. Cross Street Chestertown, MD	3-1,000 gallon above ground tanks 1st & 2nd stage regulators over 12 million BTU	14,000 gal.
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Billing Address: 709 Morgnec Road, Chestertown, MD 21620

Contact Person: Bob Merritt 410-778-7410

Kent County Detention Center Flatland Road Chestertown, MD 21620	1-500 gallon underground tank 1st & 2nd stage regulators	1,400 gal.
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Continued on the next page >>

RFP # PW 23-15
Petroleum Fuels & Propane Delivery
Kent County, MD

Billing Address: 709 Morgnec Road, Chestertown, MD 21620
Contact Person: Bob Merritt 410-778-7410

LOCATION	TANK SIZE	ANNUAL USAGE
Kent County Government Center 400 High Street Chestertown, MD 21620	2-500 gallon underground tanks. 1st & 2nd stage regulators	4,000 gal.

Billing Address: 709 Morgnec Road, Chestertown, MD 21620
Contact Person: Bob Merritt 410-778-7410

Parks & Recreation Maintenance Facility 10932 Worton Road Worton, MD	1-500 gallon above ground tank	2,000 gal.
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Billing Address: 709 Morgnec Road, Chestertown, MD 21620
Contact Person: Mark Dixon 410-778-3904

RFP # PW 23-15
Petroleum Fuels & Propane Delivery
Kent County, MD

CONTRACT "D" – REGULAR-GRADE GASOLINE

LOCATION	TANK SIZE	ANNUAL USAGE
Kent County OES – EMS Lynch Station 1158 Lynch Road Worton, MD 21678	1,000 gal.	2,500 gal.

Billing Address: Office of Emergency Services, 104 Vickers Drive, Unit D, Chestertown, MD 21620

Contact Person: James B. Russum 410-778-3758

End of section

**KENT COUNTY - PETROLEUM FUELS AND PROPANE
BID FORMS**

Proposal for providing petroleum fuels to Kent County at various locations.

The undersigned proposes to furnish all labor, materials and equipment necessary to perform the work specified in the bid documents for the following delivery prices (rack price not included) at the time of delivery.

**CONTRACT "A"
DIESEL FUEL**

	DELIVERY			
LOCATION	PRICE PER GALLON	X	ANNUAL USAGE	= AMOUNT
1. County Roads Div.	\$ _____	X	80,000	\$ _____
2. Parks & Recreation	\$ _____	X	2,000	\$ _____
TOTAL DIESEL FUEL DELIVERY				\$ _____

NAME OF SUPPLIER _____ DEPOT LOCATION _____

RACK PRICE \$ _____ DATE OF RACK PRICE _____

CONTRACT "B"
HEATING OIL

LOCATION	DELIVERY PRICE PER GALLON	X	ANNUAL USAGE	= AMOUNT
1. Parks & Rec	\$ _____	X	2,000	\$ _____
2. Detention Center	\$ _____	X	20,000	\$ _____
3. EMS Facility	\$ _____	X	1,000	\$ _____
TOTAL HEATING OIL DELIVERY				\$ _____

NAME OF SUPPLIER _____ DEPOT LOCATION _____

RACK PRICE \$ _____ DATE OF RACK PRICE _____

CONTRACT "C"
PROPANE

LOCATION	DELIVERY PRICE PER GALLON	X	ANNUAL USAGE	=AMOUNT
1a. Kent County Public Works "Office"	\$ _____	X	5,000	\$ _____
1b. Kent County Public Works Sign Shop	\$ _____	X	1,000	\$ _____
1c. Kent County Public Works "Shop"	\$ _____	X	7,000	\$ _____
1d. Kent County Public Works-Roads Div (LP Pump)	\$ _____	X	6,000	\$ _____
2. Kent County Court House	\$ _____	X	14,000	\$ _____
3. Kent County Detention Center	\$ _____	X	1,400	\$ _____
4. Kent County Govt. Center	\$ _____	X	4,000	\$ _____
5. Parks and Rec. Maintenance Facility		X	2,000	\$ _____
TOTAL PROPANE DELIVERY				\$ _____

NAME OF SUPPLIER _____ DEPOT LOCATION _____

RACK PRICE \$ _____ DATE OF RACK PRICE _____

CONTRACT "D"
GASOLINE

	DELIVERY			
LOCATION	PRICE PER GALLON	X	ANNUAL USAGE	= AMOUNT
1. EMS Facility	\$ _____	X	2,500	\$ _____

TOTAL GASOLINE DELIVERY \$ _____

NAME OF SUPPLIER _____ DEPOT LOCATION _____

RACK PRICE \$ _____ DATE OF RACK PRICE _____

****END OF SECTION****

SECTION D. INDEX OF BID FORMS

The following pages are to be completed and returned to the Issuing Office by the date and time aforementioned in Section A.8. These forms are in the order found on the Table of Contents, but are also listed here:

1. Standard Sealed Bid Price Sheet
2. Standard Sealed Bid Form
3. Bid Surety
4. Signature Form
5. Affidavit of Qualifications to Bid
6. Non-Collusion Certificate
7. General Terms and Conditions between County and Contractor

RFP # PW 23-15
Petroleum Fuels & Propane Delivery
Kent County, MD

**STANDARD SEALED BID PRICE SHEET
RFP # PW 23-15**

To the County Commissioners of Kent County, Maryland:

We hereby submit, for your review, our proposal requested by the RFP. This proposal includes and incorporates all information and specifications, required by and contained within the Contract Documents, as also described in the RFP, the same as if specifically written herein. A completed, signed, and accepted copy of this Standard Sealed Bid Form shall serve as a valid and binding contract.

PLEASE USE BID FORMS IN SECTION C.

County reserves the right to award the contract to the lowest responsible bidder for any bid item or combination of bid items.

Contractor to begin work as specified in the "Notice to Proceed" and to prosecute said work to complete the contract within sixty (60) calendar days.

Drug Abuse Policy in Effect (Circle One)	YES	NO
Certificate of Insurance attached (Circle One)	YES	NO
Bid Surety Attached (Circle One)	YES	NO
Signature Form executed (Circle One)	YES	NO
Affidavit of Qualification to Bid completed (Circle One)	YES	NO
Non-Collusion Certificate completed (Circle One)	YES	NO

RFP # PW 23-15
Petroleum Fuels & Propane Delivery
Kent County, MD

STANDARD SEALED BID FORM

RFP # PW 23-15

BIDDER: _____

AGENT (TYPED): _____

FIRM NAME: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

Submitted by: _____

(Signature of authorized agent above)

On _____, the _____ day of _____ 2023.

Accepted by:

Daniel F. Mattson, P.E., C.F.M.,
by Authority of the County Commissioners

ATTEST:

_____ **DATE** _____

**NOT REQUIRED BY THIS CONTRACT.
BID SURETY**

~~KNOWN ALL MEN BY THESE PRESENTS, that we the undersigned,~~

~~_____ as principal, and
_____ as surety, are hereby
held and firmly bound unto the County Commissioners of Kent County AS OWNER in the penal sum of
_____ for the payment of which, well and truly to be made, we hereby
jointly and severally bind ourselves, successors and assigns.~~

~~The condition of the above obligation is such that whereas the principal has submitted to the County
Commissioners of Kent County a certain BID, attached hereto and hereby made a part of hereof to enter into a
contract in writing, for the _____~~

~~NOW, THEREFORE,~~

~~a) If said BID shall be rejected, or~~

~~b) If said BID shall be accepted and the principal shall execute and deliver a contract in the form of Contract
attachment hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful
performance of said contract, and for the payment of all persons performing labor, furnishings, materials, in
connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID,
this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and
agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of
the obligation as herein stated.~~

~~The Surety, for value received, hereby stipulated and agrees that the obligations of said Surety and its BOND
shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such
BID, and said Surety does hereby waive notice of any such extension. IN WITNESS WHEREOF, the Principal and
Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate
seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth
above.~~

~~_____
Principal~~

~~_____
Surety~~

~~By: _____~~

~~By: _____~~

~~IMPORTANT: Surety companies executing BONDS must authorized to transact
business in the State of Maryland.~~

RFP # PW 23-15
Petroleum Fuels & Propane Delivery
Kent County, MD

SIGNATURE FORM

NAME OF BIDDER: _____

SIGNATURE OF AUTHORIZED PERSON: _____

PRINT AUTHORIZED PERSON: _____

TITLE OF AUTHORIZED PERSON: _____

STREET NAME AND NUMBER: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE NUMBER: _____

E-MAIL _____

DATE: _____

BIDDERS FEDERAL EMPLOYER IDENTIFICATION NO. _____

BIDDERS CONTRACTORS LICENSE AND PERMIT NUMBERS:

AFFIDAVIT OF QUALIFICATION TO BID

I HEREBY AFFIRM THAT

1. I am the (Title) _____ and
the duly authorized representative of the firm of (Name of Corporation) _____
_____ whose address is
_____ and that I
possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.

Except as described in paragraph 3 below, neither I nor the above firm, nor to the best of my knowledge, any of its officers, directors, or partners, or any of its employees directly involved in obtaining contracts with the State of any county, bi-county, or multi-county agency, or subdivision of the State, have been convicted of, or have pleaded no contender to a charge of, or having during the course of an official investigation or other proceeding, admitted in writing or under oath, acts or omissions which constitute bribery, attempted bribery, or conspiracy to bribe under the provisions of Criminal Law Article of the Annotated Code of Maryland, or under the laws of any state or the Federal government.

2. (State "none", or as appropriate, list any conviction, plea, or admission described in paragraph 2 above, with the data: court, position with the firm, and the sentence or disposition, if any)

I acknowledge that this affidavit is to be furnished to the County Attorney for the County Commissioners of Kent County, and where appropriate, to others. I acknowledge that, if the representations set forth in this affidavit are not true and correct, the County Commissioners of Kent County may terminate any contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with Section 16D of Article 78A of the Annotated Code of Maryland, which provides those certain persons who have been convicted of, or have admitted to bribery, attempted bribery, or conspiracy to bribe may be disqualified, either by operation of law or after hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Signature _____ Date _____

NON-COLLUSION CERTIFICATE

I HEREBY CERTIFY I am the _____
(Title)

and the duly authorized representative of the firm of _____

whose address is _____

AND THAT NEITHER I, nor to the best of my knowledge, information, and belief, the above firm, nor any of its other representatives I here represent, have:

- a. Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the bid, or offer being submitted herewith.
- b. Not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the bidder, or offer of herein or any competitor, or otherwise taken into action in restraint of free competition bidding in connection with the Contract for which the within bid or offer is submitted.

In making this affidavit, I represent that I have personal knowledge of the matters and facts herein stated.

Date

Signature

Date

Print Name or Type



GENERAL TERMS & CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The Contractor certifies that all information the Contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. False or misleading information constitutes grounds for the County to terminate this contract for cause and to pursue any other appropriate remedy. The Contractor certifies that the Contractor's accounting system conforms to generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficiently able to produce reliable financial information.

The County may examine the Contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arisen under this contract. The Contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for three (3) years after final payment (or for such longer period as may be required pursuant to any federal, state, or other loan or grant condition). If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The Contractor must include the preceding language of this paragraph in all first-tier subcontracts.

2. AMERICANS WITH DISABILITIES ACT

The Contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, as amended, currently found at 42 U.S.C., § 12101, et seq.

3. APPLICABLE LAWS

This contract must be construed in accordance with the applicable laws, rules, and regulations of the State of Maryland (without regard to its conflicts of laws principles) and of Kent County. All Kent County laws, rules, and regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and such laws, rules, and regulations, the laws, rules, and regulations shall govern. The Contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for Contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Maryland State courts located in Kent County, Maryland.

4. ASSIGNMENTS AND SUBCONTRACTS

The Contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by County's County Administrator, or as otherwise specifically provided for in the contract. Unless performance is separately and expressly waived in writing by the County Administrator, an assignment does not release the Contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the Contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the County Administrator.

5. CHANGES

The County Administrator may unilaterally change the work, materials and services to be performed, in accordance with County law, rule, or regulation. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the Contractor is entitled to receive. Any claim concerning an adjustment in time or money due to a change must be given in writing to the County Administrator, or the designated Contract Administrator, within thirty (30) days from the date that the change was ordered, or the claim will be waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause (Section 8) of this contract. The Contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

6. CONTRACT ADMINISTRATION

- A. The Contract Administrator, subject to paragraph B below, is the Department Representative designated by the County Administrator. The Contract Administrator is authorized to:
- 1) Serve as liaison between the County and Contractor;
 - 2) Give direction to the Contractor to ensure satisfactory and complete performance;
 - 3) Monitor and inspect the Contractor's performance to ensure acceptable timeliness and quality of service;
 - 4) Serve as records custodian for this contract;
 - 5) Accept or reject the Contractor's performance or service;
 - 6) Furnish timely written notice of the Contractor's performance failures, if applicable, to the County Administrator;
 - 7) Prepare required documents and reports;
 - 8) Approve or reject invoices for payment;
 - 9) Recommend contract modifications or terminations to the County Administrator; and
 - 10) Issue Notice to Proceed.

- B. The Contract Administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate, or cancel the contract, effect a procurement, interpret ambiguities in contract language, or waive the County's contractual rights.

7. COST & PRICING DATA

The Contractor guarantees that any cost and/or pricing data provided to the County will be accurate and complete. The Contractor grants the County access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the Contractor's proposed price(s). The Contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or non-current data supplied by the Contractor.

8. DISPUTES DURING CONTRACT PERFORMANCE

Any dispute by Contractor arising during the performance of the contract, which dispute is not disposed of by mutual agreement, must be decided as provided hereunder. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to the discretion of the County Administrator, the head of the County department, office, or agency ("Department Head") of the Contract Administrator is the designee of the County Administrator, for the purpose of dispute resolution. If the Contract Administrator is the Department Head, then the dispute shall be managed by the County Administrator. The Department Head may, with the Contractor's consent, delegate this responsibility to another person (other than the Contract Administrator). The Contractor waives any dispute or claim not made in writing and received by the Department Head within thirty (30) days of the occurrence giving rise to the dispute or claim. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit and all relevant calculations, including cost and pricing information, records, and other information. The Contractor may, at the County's option, be made a party to any related dispute involving another Contractor.

9. DOCUMENTS, MATERIALS AND DATA

All documents, materials or data developed as a result of this contract are the County's property, unless specifically provided for in the contract. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The Contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The Contractor must keep confidential all documents, materials, and data prepared or developed by the Contractor or supplied by the County.

10. DURATION OF OBLIGATION

The Contractor agrees that all of the Contractor's obligations and warranties which, directly or indirectly, are intended by their nature or by implication to survive performance of the contract shall so survive the completion of performance, termination for cause, or the termination for convenience of the contract.

11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained within the contract, including any terms, conditions, documents or exhibits thereto, and in these General Terms and Conditions. This

contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

12. ETHICS REQUIREMENTS/ POLITICAL CONTRIBUTIONS

The Contractor must comply with the ethics provisions contained in Chapter 29 – Ethics of the Code of Public Local Laws of Kent County.

13. GUARANTEE

- A. Contractor guarantees for one (1) year from acceptance, or for such other period of time as may have been expressly stated in the contract or the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for such period. The Contractor must correct any and all defects in material and/or workmanship which may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction;
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request;
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods or services;
- D. The Contractor guarantees that all work shall be accomplished in a workmanlike manner, and the Contractor must observe and comply with all federal, state, County and local laws, ordinances, and regulations in providing the goods and performing the services listed;
- E. Goods and materials provided under this contract must be of first quality, latest model, and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the contract documents; and
- F. All goods shall be merchantable and fit for the particular purpose, ordered or purchased, and as the Contractor so represents and warrants.

14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions of 29 CFR 1910.1200, and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The Contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of services or contemporaneous with delivery of goods.

15. IMMIGRATION REFORM AND CONTROL ACT

The Contractor warrants that both the Contractor and any subcontractor do not and shall not hire, recruit, or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including but not limited to any verification and record keeping requirements. The Contractor further assures the County that, in accordance with those laws, it does not and will not discriminate against an individual with respect to hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment because of such individual's national origin or, in the case of a citizen or intending citizen, because of such individual's citizenship status.

16. PROVISIONS

Notwithstanding any provisions to the contrary within any contract terms or conditions supplied by the Contractor, the County's General Terms and Conditions supersede the Contractor's terms and conditions in the event of any inconsistency, unless specifically waived or amended by the County.

In the case of any conflicts or ambiguities determined among the contract documents, such matters shall be resolved in favor of the following priorities:

- A. Any term or condition specifically provided for within a signed agreement or exhibit to a contract, other than terms and conditions provided by the Contractor;
- B. Terms and Conditions specified by the County in any Request For Proposal, Request For Qualifications, Invitation For Bid, or any other solicitation document, specifying with particularity the County's General Terms and Conditions; and
- C. These General Terms and Conditions.

The lack of a specific provision in any of the documents referred to in items 16.A. and 16.B. above shall not operate to create an ambiguity with these General Terms and Conditions.

17. INDEMNIFICATION

The Contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the Contractor's negligence or failure to perform any contractual obligations. The Contractor must indemnify and save the County harmless from any loss, cost, damage, and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the Contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the Contractor must defend the County in any action or suit brought against the County arising out of the Contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the Contractor is deemed to be the negligence of the Contractor. For the purposes of this paragraph, County includes its elected officials, employees, agents, boards, and agencies. Any incidental and consequential damages shall be limited to the amount of insurance required by the contractor hereunder.

18. INDEPENDENT CONTRACTOR

If the Contractor is an independent contractor, the Contractor and the Contractor's employees or agents are not agents or employees of the County. Neither these General Terms and Conditions nor the contract are intended to create any partnership, joint venture, agency or other relationship between the County and the Contractor.

19. INFRINGEMENT

The Contractor represents and warrants that there is no copyright or patent infringement with respect to any goods or materials furnished pursuant to the contract. The Contractor shall indemnify and hold harmless the County with respect to cost, expense, damages, and liability arising from or on account of any claim for infringement.

20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, or services called for by the contract at all reasonable places (including the Contractor's place of business) and times (including the period of preparation or manufacture).

21. INSURANCE

Prior to execution of the contract, the Contractor must obtain, at its own cost and expense, and must keep in force and effect during the term of this contract (including all extensions) the insurance specified in the contract. This must include any applicable table or attachment with an insurance company licensed or qualified to do business in the State of Maryland and with an A. M. Best rating of not less than A-. The Contractor must submit a certificate of insurance prior to award of this contract and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The County must be named as an additional insured on all liability policies. Forty-five (45) days written notice to the County of cancellation or material change in any of the policies is required. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. Subject to applicable law, the County Administrator may waive or modify the requirements of this section 21 in whole or in part.

22. NON-CONVICTION OF BRIBERY

The Contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, members, partners, or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

23. NONDISCRIMINATION IN EMPLOYMENT

The Contractor shall not discriminate in employment, or in the treatment of employees, or discriminate in any manner on the basis of race, color, gender, age, religion, creed, national origin, ancestry, marital status, disability, political affiliation, or lawful sexual orientation and shall follow and obey all applicable State, Federal, and County laws and regulations regarding employment discrimination. The Contractor must bind its subcontractors to the provisions of this section.

24. PAYMENTS

This contract is subject to a non-appropriations clause as provided herein. No payment may be made or is due under this contract unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the Contractor for legal fees. The Contractor must not proceed to perform any work or provide goods, services, or construction prior to receiving written confirmation that the County has appropriated and encumbered funds for the work. If the Contractor fails to obtain this verification from the County prior to performing work, the County has no obligation to pay the Contractor for the work.

If this contract provides for an additional contract term, or for work in any period beyond the end of the County's fiscal year in which the contract is executed, continuation of this contract beyond the end of that fiscal year is contingent upon the subsequent appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued performance in a subsequent fiscal period, this contract terminates without further notice from, or cost to, the County. The Contractor acknowledges that the County Commissioners have no obligation to appropriate funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years. Accordingly, for each subsequent contract term, the Contractor must take appropriate action to verify that such funds have been appropriated and encumbered. See Annotated Code of Maryland, Article 31, section 3.

25. PERSONAL PROPERTY

All furniture, office equipment, operator equipment, vehicles and other similar types of personal property specified in the contract and purchased with funds provided under the contract become the property of the County upon the termination or expiration of this contract, unless expressly stated otherwise.

26. TERMINATION FOR CAUSE

The County may terminate the contract in whole or in part, and from time to time, whenever the County determines that the Contractor is:

- A. Defaulting in performance or is not complying with any provision of this contract;
- B. Failing to make satisfactory progress in the prosecution of the contract; or
- C. Endangering the performance of this contract.

Prior to a termination for cause, the County will send the Contractor written notice specifying the cause. The notice will give the Contractor ten (10) days from the date the notice is issued to cure the default or make progress satisfactory to the County in curing the default, unless a different time is given in the notice. If the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the Contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the Contractor must compensate the County for additional costs incurred by the County to obtain substitute performance. A termination for cause shall be considered a termination for convenience as of the date the Contractor was advised of the termination for cause, if there was, in fact, no cause.

27. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the Contractor, when the County determines termination to be in the County's best interest. The termination is effective ten (10) days after the notice is issued, unless a different time is given in the notice. The County is liable only for payment for acceptable performance prior to the effective date of the termination, and for costs reasonably incurred as of the date of termination, including costs or items acquired by such costs that cannot be economically retained by the Contractor for other or future use of the Contractor.

28. TIME

Time is of the essence in the performance by Contractor of the contract and of all ancillary matters arising therefrom.

29. TITLE

All goods delivered or provided to the County or otherwise pursuant to the contract, and the title thereto, shall be free of any security interest, lien, contract restriction, or other form of encumbrance. Title shall pass to the County at the place of delivery to the County, subject to the County's right to inspect and accept or reject the goods.

30. WORK UNDER THE CONTRACT

Work may not commence under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, and issuance of any required Notice to Proceed.