INVITATION FOR BIDS/PROPOSALS: 40694R  
REPLACES CONTRACT NO.: 40419  
DATE SENT: 09/16/2020  
CLOSING DATE, 2:00 PM: 10/09/2020  
PURCHASING CONTACT: Julie Wilburn  
TELEPHONE: 785-532-6214  
E-MAIL: kspurch@k-state.edu

NOTICE TO VENDORS

Invitations are extended for bids/proposals on the attached document.

ITEM: Bulk Liquid Nitrogen & Oxygen Gas Services and Tank Rental

USING DEPARTMENT: Kansas State University – Multiple Departments; Wichita State University

PERIOD OF CONTRACT: January 1, 2021 through December 31, 2021 with four (4) one-year renewal options

GUARANTEE: NONE REQUIRED

SCOPE OF INVITATION:

The intent of this Invitation for Bid is to establish a contract for the delivery of Bulk Liquid Nitrogen and Bulk Liquid Oxygen along with the rental of a certified bulk gas tank configured with telemetry equipment for several departments at Kansas State University and Wichita State University.

Kansas State University reserves the right to enter into negotiations with vendors should it be determined to be in the best interest of the University.

READ THIS INVITATION CAREFULLY

Failure to abide by all of the conditions of this Invitation may result in the rejection of a bid. Inquiries about this Invitation should indicate the contract number and be directed to the purchasing contact.

Updated June 2020
BACKGROUND
Kansas State University was founded in 1863 as the country's first operational land-grant university. Kansas State University has campuses in Manhattan, Salina and Olathe; Global Campus, which serves distance education students; and K-State Research and Extension has a presence throughout Kansas. Forbes magazine, The Princeton Review and U.S. News & World Report have recognized the university as one of the best in America. More than 21,000 students from all 50 states and more than 100 countries attend Kansas State University. Students can choose from more than 250 majors and options in nine colleges: Agriculture; Architecture, Planning & Design; Arts & Sciences; Business Administration; Education; Engineering; Health & Human Sciences; Polytechnic; and Veterinary Medicine. The Graduate School offers more than 100 academic programs. From the 8,600-acre Konza Prairie Biological Station to the Johnson Cancer Research Center, the university is home to more than 90 research centers. Kansas State University is recognized by the Princeton Review as one of America's best colleges, and U.S. News & World Report lists the university among the top 75 public universities in the U.S. Kansas State University is implementing an aggressive plan to become a top 50 public research university by 2025.

SPECIFICATIONS
The successful vendor is to provide services that include the delivery of Bulk Liquid Nitrogen and Bulk Liquid Oxygen to Kansas State University and Wichita State University departments listed by Groups 1 – 9, along with the rental of a certified bulk gas tank configured with telemetry equipment that meets or exceeds the following specifications.

The following must be furnished with each vessel for each department, whether rented or purchased:

1. Liquid Outlet 1"
2. Dry Gas Outlet 2"
3. Safety Devices
   a. Liquid container safety valve and disk 100 psig
   b. Filling line safety valve 150 psig
   c. Pipe line safety valve set at 150% of pipe line pressure
   d. Liquid container bursting disk 180 psig
   e. Liquid withdrawal line safety valve 150 psig
   f. Casing relief device less than 1 psig
4. Regulators
   a. Pipe line regulator
   b. Pressure building regulator
5. Gauges
   a. Tank liquid level gauge
   b. Tank pressure gauge
   c. Pipe line pressure gauge
6. Working Pressures Will Be As Follows:
   a. Vessel 25 psig
   b. Line pressure 25 psig

Inspection: Rented vessel storage containers shall be checked by contractor for storage efficiency annually and a report provided to the department. Any tank deficiencies or issues must be fixed by vendor at their charge or tank replaced.

Maintenance & Repair: Maintenance agreements provided for purchased vessel storage containers shall be checked periodically by contractor for storage efficiency as outlined in the agreement. Vendor shall provide maintenance reports to department as requested. Vendor is responsible for repair or replacement of any equipment deemed to not be in working order.

Telemetry Services & Equipment: Telemetry equipment to be installed on the tank in order to monitor tank levels and other conditions such as temperature, gas purity, and pressure; monitoring services to be included. System shall have an alarm system with a local display and be self-diagnosing to detect failure feature. System should be able to log pertinent data readings that are accessible by both the vendor and department. System must meet industry standards and be industry compliant.

Delivery: Purchase and/or rental prices of storage units are to include delivery and installation costs. Vendor shall guarantee delivery of Liquid Nitrogen or Oxygen to the department, within 24 hours of a system notification of a low tank or other request made by the University.

Customer Service Levels: A dedicated account representative is to be assigned to the account and will respond to issues in timely manner. A dedicated after-hours escalation plan should be in place that includes a contact and phone number of an on-call hour's staff member who can respond to issues.
BULK NITROGEN

- The liquid nitrogen furnished must be 99.0% pure or better for all departments.
- Method of delivery shall be through liquid meter and verified by the liquid level gauge on tanks.
- All orders shall be shipped F.O.B. Destination, prepaid and allowed, according to schedules which are mutually agreeable to both contractor and agency/department. If delays in delivery are anticipated, the Contractor shall notify the ordering agency of the expected delivery date or partial delivery date. The order may be canceled if delivery time is unsatisfactory. The Contractor shall inform the Kansas State University Purchasing Office of any supply or delivery problems.

STORAGE VESSELS:
- A cryogenic vessel for each department to store the liquid nitrogen shall meet the following general requirements.
- Each tank will have a telemetry unit on them that will have the capability to call in to a central location with readings on the tank to assure that the tanks do not run out of product. The system will also be able to detect unlikely amounts of use that is not common for that specific tank usage.

GROUP 1 – PHYSICS:
   a. Capacity of 1500 gallons or 3000 gallons. The department will determine what size is in their best interest.
   b. The unit must fit on a 12’ x 12’ concrete platform and operate on 120 volts, all furnished by the University.
   c. A minimum of 2,000 liters of liquid nitrogen must be maintained in the vessel at all times.

GROUP 2 - KANSAS ARTIFICIAL BREEDING SERVICE UNIT (KABSU):
   a. Capacity of 20,000 liters minimum.
   b. The unit must fit on a 12’ W x 12’ L x 18” thick concrete platform and necessary power will be furnished by the University.
   c. A minimum of 2,000 liters of liquid nitrogen must be maintained in the vessel at all times.

GROUP 3 – CHEMISTRY:
   a. Capacity of 3400 liters minimum.
   b. The unit must fit on an 8’ x 10’ concrete platform and necessary power will be furnished by the University.
   c. A minimum of 2,000 liters of liquid nitrogen must be maintained in the vessel at all times.

GROUP 4 - MECHANICAL AND NUCLEAR ENGINEERING:
   a. Capacity of 5,000 liters minimum.
   b. The unit must fit on a 12’ W x 12’ L x 18” thick concrete platform and any necessary power will be furnished by the University.
   c. A minimum of 2,000 liters of liquid nitrogen must be maintained in the vessel at all times.

GROUP 5 – WICHITA STATE UNIVERSITY- NIAR Campus:
   a. Capacity of 11,355 estimated liters minimum.
   b. Monthly rental charge for one 3000 gallon horizontal tank placed on roof of NIAR building.
   c. A minimum of 2,000 liters of liquid nitrogen must be maintained in the vessel at all times.
   d. Bidders to inspect tank before bidding.

GROUP 6 – WICHITA STATE UNIVERSITY- NIAR PARK CITY:
   a. Capacity of 11,355 estimated liters minimum.
   b. The unit must fit on a 12’ W x 12’ L x 18” thick concrete platform and any necessary power will be furnished by the University.
   c. Has vacuum jacketed liquid withdraw valve and connection.
   d. Remote fill, need to inspect site to see special plumbing connections.
   e. A minimum of 2,000 liters of liquid nitrogen must be maintained in the vessel at all times.
   f. Bidders to inspect tank before bidding.

GROUP 7 - WICHITA STATE UNIVERSITY-NIAR ENVIRONMENTAL LAB
   a. Minimum 3,000 gallon tank.
   b. Current pad size is 22’x18’x18” – This is sufficient to hold a 6,000 gallon tank, but we only require a 3,000 gallon currently.
   c. Current line distribution into building is vacuum jacketed.
   d. There is also a filling station for portable tanks. This is required and must be maintained.
   e. There is a 50psi GN2 port and line that feeds into the building. This is required and must be maintained.
   f. Electrical power comes from the building.
   g. No data connection for telemetry is available currently.
h. Need to maintain minimum half capacity at all times.
i. Bidders need to inspect the site.
j. WSU ETL does not own the current tank. It is leased from the current contractor.

**GROUP 8 - WICHITA STATE UNIVERSITY – NIAR NCAT**

a. Minimum 3,000 gallon tank
b. The unit must fit on a 12’ W X 15’ L x 6” thick concrete platform
c. A minimum of 1000 liter of liquid nitrogen must be maintained in the vessel at all times.
d. Bidders to inspect tank before bidding.
e. WSU NCAT does not own the tank and the accompanying accessories for operation.
f. Contract start date shall be March 1, 2021 through December 31, 2021 the first year. Then January 1, 2022 through December 31, 2022 in year 2 and each year thereafter.

**BULK OXYGEN**

**GROUP 9 – VETERINARY HEALTH CENTER ONLY**

a. 2 tanks for department
i. Tank 1 (larger -- Main tank)
   1) Full – 142 inches
   2) Re-order point – 46 inches (or 120 psi)
   3) Primary 1500 Gallon Capacity Bulk Oxygen Tank for rent.
   4) All delivery, installation, and pick up charges to be paid by the vendor.

i. Tank 2 (smaller -- reserve tank)
   1) Full – 100 inches
   2) Re-order point – 30 inches (or 100 psi)
   3) Reserve tank with the ability to provide service to the hospital for four (4) days or until the primary tank can be refilled (weekly usage estimated to be 76,500 cu. ft.) vendor to state size on Bid Form

b. Reserve tank must have ability to run the hospital for 4-days or until large tank can be refilled.
c. Approximate usage per year is 2,220,000 Cubic feet
d. Gauge/monitor on tank that notifies vendor automatically when the tank reaches re-order point and needs refilled. (re-order point can be negotiated at start of contract)
e. Deliveries within 24 hours of notification
f. Provide Medical grade bulk oxygen
   i. Purity of Oxygen: 99.996%-Medical Grade (a.k.a USP Grade)
g. Provide all equipment required to fill tank as needed.
h. Frequency of Fill: As Needed
   i. Vendor shall own and maintain the tanks, manifold system, and all associated equipment from the tanks to the manifold.
j. Hours of Delivery: 8:00 am to 12:00 pm and 1:00 pm to 4:00 pm, Monday through Friday (except for Holidays).
k. Any Exceptions with Prior Mutual Agreement

**Timeline**
The University expects to make an award by late November 2020. Work would be expected to start immediately thereafter. This timeline is an indication only and may change at the university’s discretion. Please indicate your company’s availability for this commencement date.

**BID INSTRUCTIONS**

1. **PREPARATION OF BID**: Each bid must be legible and signed. Prices are to be entered in spaces provided on the bid form. Computations and totals shall be indicated where required. In case of error in computations or totals, the unit price shall govern.

2. **SIGNATURE OF BIDS**: Each bid shall give the complete mailing address of the vendor and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line.

3. **ACKNOWLEDGMENT OF ADDENDA**: All vendors shall acknowledge receipt of any addenda to this Invitation. Failure to acknowledge receipt of any addenda may render the bid to be non-responsive. Changes to this Invitation shall be issued only by Kansas State University Purchasing in writing.
4. **SUBMISSION OF BID:** The official Signature Sheet, Cost Proposal form, and any other required documentation must be uploaded to the Vendor Bid Submission Secure File Upload portal, https://www.k-state.edu/finsvcs/purchasing/bidsubmission.html, prior to 2 p.m. CT on the closing date. Proposals submitted via any other method will not be considered (effective March 23, 2020). Under all circumstances, it shall be the vendor’s responsibility to ensure their bid is properly received by the appropriate date/time at the Kansas State University Purchasing Office.

5. **QUESTIONS:** Questions requesting clarification of this Invitation are to be submitted by the close of business on 09/25/2020 to kspurch@k-state.edu with the proposal number referenced in the Subject line.

Failure to notify the Purchasing Office of any conflicts or ambiguities in the Invitation may result in items being resolved in the best interest of K-State. Any modification to this Invitation as a result of any pre-proposal conference or written answers to written questions shall be made in writing by addendum and emailed to all vendors who received the original request from K-State Purchasing. Only written communications are binding.

Answers to questions will be provided in the form of an addendum and posted on Kansas State University Purchasing’s website: https://dfs.ksu.edu/rfq/. It shall be the responsibility of all participating vendors to acquire any and all addenda and additional information as it is made available from the website cited above. Vendors are required to check the website periodically for any additional information or instructions.

6. **CLOSING DATE FOR BIDS:** All bids shall be received promptly at 2:00 p.m. Central Standard or Daylight Savings Time on 10/09/2020 whichever is in effect. Bids received after the closing date will not receive consideration and will remain sealed in the bid file.

7. **MODIFICATION OF BIDS:** A vendor may modify a bid by email any time prior to the deadline for receipt of bids, and the Purchasing Office is satisfied that a written confirmation of the modification signed by the vendor was emailed prior to the deadline.

8. **WITHDRAWAL OF BIDS:** A bid may be withdrawn via email from the vendor to the purchasing agent at the K-State Purchasing Office prior to the closing date.

9. **BID DISCLOSURE:** As of March 23, 2020, Kansas State University is maintaining limited operation status based on the latest guidance from the CDC and KDHE. As a public health precautionary measure, Kansas State University Purchasing will not hold any public bid openings until further notice. Bid tabulations will be available after the release of a purchase order or the contract is finalized. Results may be obtained by sending the contract proposal number for each tab requested to kspurch@k-state.edu

Copies of individual proposals may be obtained under the Kansas Open Records Act by submitting a written request to Open Records, Communications and Marketing, 128 Dole Hall, Kansas State University, Manhattan, KS 66506 (EMAIL openrecords@k-state.edu or FAX 785-532-7355). An estimate of the amount of time and copies it will take to complete the request will be compiled. After payment has been received, the documents will be released. Should a check be returned to Kansas State University for insufficient funds, the vendor will be suspended from all bidding until such time as the vendor makes good on payment. More information regarding the Kansas Open Records Act is available at http://www.k-state.edu/policies/ppm/3000/3060.html

Information in bid files will not be released until a bid has been awarded or all bids have been rejected.
GENERAL CONDITIONS

1. **CONTRACT:** The successful vendor will be required to enter into a written contract with Kansas State University. The vendor agrees to accept the provisions of form KSU-146a, Contractual Provisions Attachment, which is incorporated into all contracts with the University and is attached to this Invitation.

2. **CONTRACT DOCUMENTS:** This Invitation and any addenda and the response and any addenda of the successful vendor shall be incorporated along with the KSU-146a into the written contract which shall compose the complete understanding of the parties.

3. **CONTRACT FORMATION:** No contract shall be considered to have been entered into by Kansas State University until all statutorily required signatures and certifications have been rendered; funds for the contract have been encumbered; and a purchase order, signed by the Purchasing Office, has been deposited in the mail OR a written contract has been signed by the successful vendor.

4. **FEDERAL, STATE AND LOCAL TAXES-GOVERNMENTAL ENTITY:** Unless otherwise specified, the bid price shall include all applicable federal, state and local taxes. The successful vendor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Invitation. The University is exempt from state sales or use taxes and federal excise taxes. These taxes shall not be included in the vendor’s price quotations.

5. **EVALUATION OF BIDS:** Award shall be made in the best interest of the University. Consideration may focus toward but is not limited to:
   - Cost. Vendors are not to inflate prices in the initial bid/proposal as cost is a factor in determining who may receive an award or be invited to formal negotiations (if indicated). The University reserves the right to award to the lowest responsive bid without conducting formal negotiations.
   - Adequacy and completeness of proposal
   - Vendor’s understanding of the project
   - Compliance with the terms and conditions of the Invitation
   - Experience in providing like services
   - Qualified staff
   - Methodology to accomplish tasks
   - Response format as required by this Invitation

6. **ACCEPTANCE OR REJECTION:** The University reserves the right to accept or reject any or all bids / proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this Invitation; and unless otherwise specified, to accept any item in a proposal.

7. **COMPETITION:** The purpose of this Invitation is to seek competition. The vendor shall advise the Purchasing Office if any specification, language or other requirement inadvertently restricts or limits bidding to a single source. Notification shall be in writing and must be received by the Purchasing Office no later than five (5) business days prior to the bid closing date. The Purchasing Office reserves the right to waive minor deviations in the specifications which do not hinder the intent of this Invitation.

8. **NEW MATERIALS, SUPPLIES OR EQUIPMENT:** Unless otherwise specified, all materials, supplies or equipment offered by a vendor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery.

9. **EQUIVALENT ITEMS:** Whenever a material, article or piece of equipment is identified in the specifications by reference to a manufacturer’s or vendor’s name, trade name, catalog number, etc., it is intended to establish a standard, unless otherwise specifically stated. Any material, article or equipment of other manufacturers or vendors shall perform to the standard of the item specified. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be furnished at no expense to the State and if not destroyed in the evaluation process, shall be returned at vendor’s expense, if requested.

10. **DEFAULT ON DELIVERY:** Any vendor, who defaults on delivery as defined in this Invitation may, at the discretion of the Purchasing Office, be barred from bidding on any subsequent Invitation for a period to be determined.
11. **INSURANCE:** The State shall not be required to purchase any insurance against loss or damage to any personal property nor shall the State establish a "self-insurance" fund to protect against any loss or damage. Subject to the provisions of the Kansas Tort Claims Act, the vendor shall bear the risk of any loss or damage to any personal property.

12. **INSPECTION:** The State reserves the right to reject, on arrival at destination without cost to the State, any items which do not conform with the specifications of this Invitation.

13. **TERMINATION:** Kansas State University Purchasing may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

   (1) The Contractor fails to make delivery of goods or services as specified in this contract; or
   (2) The Contractor fails to perform any of the provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms.

   The using department or Kansas State University Purchasing shall provide the Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within 10 days from the receipt of the notice (or such longer period as may be authorized in writing), Kansas State University Purchasing shall issue the Contractor an order to stop work immediately. Receipt of this notice shall be presumed to have occurred within three (3) days of the date of the notice.

   Kansas State University Purchasing may terminate performance of work under this contract in whole or in part whenever, for any reason, it is determined that the termination is in the best interest of the University. In the event that Kansas State University Purchasing elects to terminate this contract pursuant to this provision, he/she shall provide the Contractor written notice at least 30 days prior to the termination date. The termination shall be effective as of the date specified in the notice. The contractor shall continue to perform any part of the work that may have not been terminated by the notice.

14. **RIGHT AND REMEDIES:** If this contract is terminated, the State, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed, any completed materials. The State may be obligated only for those services and materials rendered and accepted prior to the date of termination. Subject to proof of market price, the measure of damages for non-delivery or repudiation by the Contractor shall be the difference between the market price at the time when the State learned of the breach and the contract price together with any incidental and consequential damages less expenses saved in consequence of the contractor's breach. Market price shall be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

   If it is determined, after notice of termination for cause, that the Contractor’s failure was due to causes beyond the control of or negligence of the Contractor, the termination shall be a termination in the best interest of the State.

   The Contractor shall not be liable if the failure to perform this contract arises out of causes beyond the control of or negligence of the Contractor. Causes may include, but are not limited to, acts of nature, fires, quarantine, strikes other than by the Contractor’s employees, and freight embargoes.

   In event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to and/or goods were accepted by the State.

   The rights and remedies of the State provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

15. **WAIVER:** Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by the State shall not constitute a waiver.

16. **HOLD HARMLESS:** The Contractor shall indemnify the State against any and all claims for injury to or death of any persons; for loss or damage to any property; and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract. The State shall not be precluded from receiving the benefits of any insurance the contractor may carry which provides for indemnification for any loss or damage to property in the contractor’s custody and control, where such loss or destruction is to State property. The contractor shall do nothing to prejudice the State’s right to recover against third parties for any loss, destruction or damage to State property.
17. **PROHIBITION OF GRATUITIES.** Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer to give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

18. **FEDERAL, STATE AND LOCAL TAXES-CONTRACTOR.** The State makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

19. **ANTITRUST.** The Contractor assigns to the State all of its rights to and interests in any causes of action it has or may acquire under the antitrust laws of the United States and the State of Kansas relating to the particular product or services purchased or acquired by the State pursuant to this contract.

20. **MODIFICATION.** This contract shall be modified only by the written agreement of the parties with the approval of Kansas State University Purchasing.

21. **ASSIGNMENT.** The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the State which consent will not be unreasonably withheld or delayed. This contract shall immediately terminate in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the State.

22. **THIRD PARTY BENEFICIARIES.** This Contract shall not be construed as providing an enforceable right to any third party.

23. **CAPTIONS.** The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

24. **SEVERABILITY.** If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of this contract shall be enforced to the fullest extent permitted by law.

25. **GOVERNING LAW.** This agreement shall be governed by the laws of the State of Kansas.

26. **NOTICE OF AWARD.** The K-State Purchasing Office shall issue either a purchase order or a written contract to the successful vendor.

27. **POLITICAL SUBDIVISIONS.** Political subdivisions [including but not limited to, the Kansas Board of Regents and its member institutions, Riley County, City of Manhattan, and local Unified School Districts (USDs)] are permitted to utilize contracts administered by Kansas State University. Conditions included in this contract shall be the same for political subdivisions. The University has no responsibility for payments owed by political subdivisions. The vendor must deal directly with the political subdivision. Bidders shall indicate below if pricing is available to political subdivisions.

28. **TAX CLEARANCE CERTIFICATE.** A “tax clearance” is a comprehensive tax account review to determine and ensure that the account is compliant with all primary Kansas Tax Laws administered by the Kansas Department of Revenue (KDOR) Director of Taxation. Kansas State University supports the State of Kansas tax clearance process. Vendors submitting bids, proposals, contracts, etc., are required to provide a current tax clearance certificate. For more information regarding this process please go to: [http://www.ksrevenue.org/taxclearance.html](http://www.ksrevenue.org/taxclearance.html)

29. **ACCOUNTS RECEIVABLE SET-OFF PROGRAM.** During the course of this contract if the vendor is found to owe a debt to the State of Kansas, payments to the vendor may be intercepted (setoff) by the State of Kansas. Notice of the setoff action will be provided to the vendor. The vendor shall credit the account of the department making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes vendors against debts owed by the vendors to the State of Kansas. Payments setoff in this manner constitute lawful payment for services or goods received. The vendor benefits fully from the payment because its obligation to the State is reduced by the amount subject to setoff.
SPECIAL CONDITIONS

1. **TERM OF CONTRACT.** The term of this contract is from January 1, 2021 through December 31, 2021 with four (4) one (1) year renewal options.

2. **OPEN-ENDED CONTRACT.** This Invitation is for a contract between a vendor and Kansas State University to furnish an undetermined quantity of a good or service in a given period of time.

3. **QUALITY.** Materials used and workmanship shall be of the highest quality. Failure to produce and/or supply materials of the highest quality may result in rejection of an order entirely at the contractor's expense.

   The decision of Kansas State University Purchasing shall be final in all instances of dispute herein. The proof of accuracy or manufacture and quality of material rests with the contractor.

4. **PRICE.** Prices shall remain firm throughout the contract period. On the contract anniversary date, the price may be adjusted up or down (maximum 5%) keyed to market conditions. It is understood that in the event the parties cannot agree upon the renewed price the contract will be terminated.

5. **DELIVERIES.** All orders shall be shipped FOB destination, prepaid and included, unless stated otherwise. Deliveries must be clearly marked with the purchase order number. If delays in delivery are anticipated, the Contractor shall notify the ordering department of the expected delivery date or partial delivery date. The order may be canceled if delivery time is unsatisfactory. The Contractor shall inform Kansas State University Purchasing of any supply or delivery problems.

6. **INVOICES.** Each purchase order must be individually invoiced. Invoices shall be forwarded to the using department in duplicate and shall state the following:
   
   (1) Date of invoice;
   (2) Date of shipment (or completion of work);
   (3) Purchase Order number and contract number;
   (4) Itemization of all applicable charges; and
   (5) Net amount due.

7. **PAYMENT.** Payment Terms shall be net 30, unless stated otherwise. Payments will be made in regular routine per K.S.A. 75-6403 upon receipt by the ordering department of the contractor's invoice in duplicate.
Closing Date: October 9, 2020

Item: Bulk Liquid Nitrogen & Oxygen Gas Services and Tank Rental

Department: Kansas State University – Multiple Departments; Wichita State University

**SIGNATURE SHEET**

We submit a proposal to furnish requirements during the contract period in accordance with the specifications and Schedule of Supplies.

LEGAL NAME OF PERSON, FIRM OR CORPORATION ___________________________________________

ADDRESS __________________________________________

CITY & STATE_________________________________________ ZIP CODE ________________

CONTACT NAME _______________________________________

CONTACT E-MAIL ______________________________________

CONTACT PHONE NUMBER ________________________________

AUTHORIZED SIGNATURE & DATE __________________________

TYPED NAME __________________________________________

TITLE ________________________________________________

E-MAIL ______________________________________________

If awarded a contract and purchase orders are to be directed to an address other than above, indicate mailing address and telephone number below.

ADDRESS __________________________________________

CITY & STATE_________________________________________ ZIP CODE ________________

PHONE NUMBER ______________________________________

COST PROPOSAL

Vendor Name: ________________________________

NITROGEN

GROUP 1 - PHYSICS DEPARTMENT
Vendor supplies product and rental of storage unit:
- Estimated usage 14,070 cf per month × $__________/100 cf = $______________
- Monthly rental charge for one 1500 gallon tank $________________
- Monthly rental charge for one 3000 gallon tank $________________
  **MONTHLY TOTAL** $________________

GROUP 2 - KANSAS ARTIFICIAL BREEDING SERVICE UNIT (KABSU)
Vendor supplies product and rental of storage unit:
- Estimated usage 625,000 cf per month × $__________/100 cf = $______________
- Monthly rental charge for one 6000 gallon tank $________________
  **MONTHLY TOTAL** $________________

GROUP 3 - CHEMISTRY DEPARTMENT
Vendor supplies product and rental of storage unit:
- Estimated usage 130,000 cf per month × $__________/100 cf = $______________
- Monthly rental charge for one 1500 gallon tank $________________
  **MONTHLY TOTAL** $________________

GROUP 4 - MECHANICAL AND NUCLEAR ENGINEERING
Vendor supplies product and rental of storage unit:
- Estimated usage 427,000 cf per month × $__________/100 cf = $______________
- Monthly rental charge for one 3000 gallon tank $________________
  **MONTHLY TOTAL** $________________

GROUP 5 - WICHITA STATE UNIVERSITY-NIAR Campus
Vendor supplies product and rental of storage unit:
- Estimated usage 366,000 cf per month × $__________/100 cf = $______________
- Monthly rental charge for one 3000 gallon horizontal tank placed on roof of NIAR building, Chart #HS 3000NC-250. Has vacuum jacketed liquid withdraw valve and connection. Remote fill, need to inspect site to see special plumbing connections. $________________
  **MONTHLY TOTAL** $________________

GROUP 6 - WICHITA STATE UNIVERSITY-NIAR PARK CITY
Vendor supplies product and rental of storage unit:
- Estimated usage 51,000 cf per month × $__________/100 cf = $______________
  **MONTHLY TOTAL** $________________

*The estimated usage for WSU is subject to change in the next year or two. NIAR Campus usage will decrease and NIAR Park City will increase.*
GROUP 7 - WICHITA STATE UNIVERSITY-NIAR ENVIRONMENTAL LAB

Vendor supplies product and rental of storage unit:
Estimated usage 85,000 cf per month X $____________________/100 cf = $____________________
MONTHLY TOTAL $____________________

GROUP 8 – WICHITA STATE UNIVERSITY-NIAR NCAT

Vendor supplies product and rental of storage unit:
Estimated usage *10,000 cf per month X $____________________/100cf $____________________
*this is based on current usage for R&D grants and projects. Could increase/decrease.
MONTHLY TOTAL $____________________

OXYGEN

GROUP 9 – VETERINARY HEALTH CENTER

Vendor supplies product and rental storage unit:
287,000 cf per month X $____________________/100 cf = $____________________
MONTHLY RENTAL CHARGE FOR SYSTEM: $____________________
(Bulk Oxygen Primary and Reserve tank, manifold, and all associated equipment)
MONTHLY TOTAL $____________________

Is your pricing available to political subdivisions of the State of Kansas? Yes / No
Payment Terms: __________ Will P-Card be accepted for payment? Yes / No
Will ACH (direct deposit) be accepted for payment? Yes / No

Proposal responses shall include a list of 5 (minimum) references on a separate sheet. Company name, contact, phone number and email address information shall be included for each reference.
1. **Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in the contract (including, without limitation, all other attachments) in which this attachment is incorporated. Any terms that conflict with or could be interpreted to conflict with this attachment arenullified.

2. **Kansas Law and Venue**: All matters arising out of or related to this contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit arising out of or related to this contract shall reside only in courts located in the State of Kansas.

3. **Disclosure Of Liability**: Neither the University, this University's representatives, nor any of its controlled corporations (collectively “University”) shall be held liable to, defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The terms, conditions, and limitations of liability of the State of Kansas, the University, and their employees are exclusively defined under the Kansas Tort Claims Act (K.S.A. 75-6101, et seq.).

4. **Arbitration, Damages, Warranties**: No interpretation of this contract shall find that the University has agreed to binding arbitration, or the payment of damages or penalties. Further, the University does not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages or rights of action available to the University at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

5. **Termination Due To Lack Of Funding Appropriation**: If sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, the University may terminate this agreement at the end of its current fiscal year. The University agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year if such notice may be required by the State of Kansas. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided under any contract for which it has not been paid. The University will pay to the contractor any arrearage in contractual payments due or accrued through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by the University, title to any such equipment shall revert to Contractor at the end of the University’s current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

6. **Export Control**: The University shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

7. **Insurance**: The University shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require the University to establish a “self-insurance” fund to protect against any such loss or damage.

8. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the required approvals and certifications have been given, including, but not limited to, the signature of an authorized representative of the University as defined in the University Contracts Policy: https://www.k-state.edu/policies/ppm/3000/3070.html.

9. **Authority To Execute Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions hereof.

10. **Export Control Prior To Providing University with Any Items Under this Contract That are Subject to Export Controls Regulations, including Items Controlled under the International Traffic in Arms Regulations (ITAR), 22 C.F.R. §§ 120-130, or the Export Administration Regulations (EAR), 15 C.F.R. §§ 730-774, Contractor will notify University and identify the export controlled items by category and subcategory of the United States Munitions List and/or the Commerce Control List. University reserves the right to decline to accept any items or information controlled under ITAR or EAR. Contractor will direct all notices under this section to the appropriate University contact as follows: compliance@k-state.edu.

11. **Privacy Of Student Records**: Contractor understands that the University is subject to FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g). To the extent Contractor possesses any education records of University’s students under this contract, Contractor is deemed to be a school official with a legitimate educational interest in the records and Contractor agrees to comply with FERPA and its regulations. Contractor specifically agrees that it shall use personally identifiable education records only for purposes related to this contract, and shall not disclose such records to any third party without authorization from the University. Contractor shall promptly report to the University any request for, or improper disclosure of, University student educational records.

12. **Anti-Discrimination Clause**: Contractor agreed to comply with all applicable state and federal anti-discrimination laws. When requested by University, Contractor shall cooperate with University in meeting obligations under University’s own policies and procedures, including but not limited to the University’s anti-discrimination policy. Contractor specifically acknowledges that it employs or otherwise participates in University programs or activities have reviewed, understand, and will comply with University’s anti-discrimination policy and its reporting website at https://www.k-state.edu/report/. Contractor also agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase “equal opportunity employer”; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission or if it is determined that the contractor has violated applicable provisions of ADA, such violation(s) shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the University.

13. **Information/Confidentiality**: As a state agency, the University’s contracts and prices paid for goods and services are generally public records, and therefore the provision of this contract shall not restrict the University’s ability to produce this contract in response to a lawful request or from otherwise complying with the Kansas Open Records Act (K.S.A. 45-215, et seq.). Moreover, no provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, et seq.

14. **The Eleventh Amendment**: The Eleventh Amendment is an inherent and incumbent protection of the State of Kansas and need not be reserved, but prudence requires the University to reiterate that nothing in or related to this contract shall be deemed a waiver of the Eleventh Amendment.

15. **Campaign Contributions / Lobbying**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions hereof.

16. **Facility Access**: To the extent Contractor is required to be on the University’s premises in the performance of any contract, Contractor and its representatives will adhere to the University’s policies and procedures, and will use commercially reasonable efforts not to interfere with the University’s regular operations. Contractor further agrees, upon request, to include the University as an additional insured on its general liability insurance policy on a primary and non-contributory basis, with such policy to provide continuous coverage for at least a period of two years after the end of the contract and such policy is not be cancelled without 30 day prior notice to the University and another general liability insurance policy in place prior to the termination of the existing policy. The Contractor shall also provide the University with a certificate of insurance within five business days upon request.

17. **Electronic Signature**: This contract contains mandatory contract provisions and must be attached to and specifically incorporated in all contractual agreements by adding the following statement to the main body of the contract: “The Provisions found in Contractual Provisions Attachment (Form KSU-146a, Rev. 7-20), which is attached hereto, are hereby incorporated in this contract and made a part hereof.”