

State of Nebraska - INVITATION TO BID

ONE TIME PURCHASE

Return to:
 State Purchasing Bureau
 1526 K Street, Suite 130
 Lincoln, Nebraska 68508

Telephone: 402-471-6500
 Fax: 402-471-2089

Date	3/10/21	Page	1 of 2
Solicitation Number	6504 OF		
Opening Date and Time	04/02/21	2:00 PM	
Buyer	JULIE DABYDEEN (AS)		

DESTINATION OF GOODS
 EDUCATIONAL TELECOMM COMM
 MERRIMAN
 88626 ST HIGHWAY 61
 CONTACT TIM HANSEN 402-822-0408
 MERRIMAN NE 69218-9708

Per Nebraska's Transparency in Government Procurement Act, DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

No NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this ITB.

No I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. §73-107 and wish to have preference, if applicable, considered in the award of this contract.

One Time Purchase to supply and deliver Dielectric DCRM10CR FM antenna for KRNE-FM to the State of Nebraska as per the attached specifications.

A response to this Solicitation is subject to, but not limited to, the Standard Terms and Conditions. PLEASE READ CAREFULLY!

This form is part of the specification package and must be signed and returned, along with all documents, by the opening date and time specified.

(MH 3/10/21)

INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	COST REMOVAL OF OLD ANTENNA	1.0000	EA	\$19,752.50	\$19,752.50
2	COST OF NEW FM ANTENNA DIELECTRIC DCRM10CR	1.0000	EA	\$58,183.00	\$58,183.00

BIDDER MUST COMPLETE THE FOLLOWING

DISCOUNT PAYMENT TERMS: 0 % 30 DAYS

By signing this Invitation to Bid form, the bidder guarantees compliance with the provisions stated in this Invitation to Bid, agrees to the terms and conditions unless otherwise agreed to (see Section III) and certifies that bidder maintains a drug free work place environment. Vendor will furnish the items requested within 90 days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.

Sign Here William G. Harland April 1, 2021
 (Authorized Signature MANDATORY - MUST BE SIGNED IN INK)

Enter Contact Information Below

VENDOR# 504660
 VENDOR: Electronics Research, Inc.
 Address: 7777 Gardner Road
Chandler, IN 47610

Contact Bill Harland
 Telephone +1 (812) 925-6000 Ext. 214
 Facsimile +1 (812) 925-4030
 Email bharland@eriinc.com

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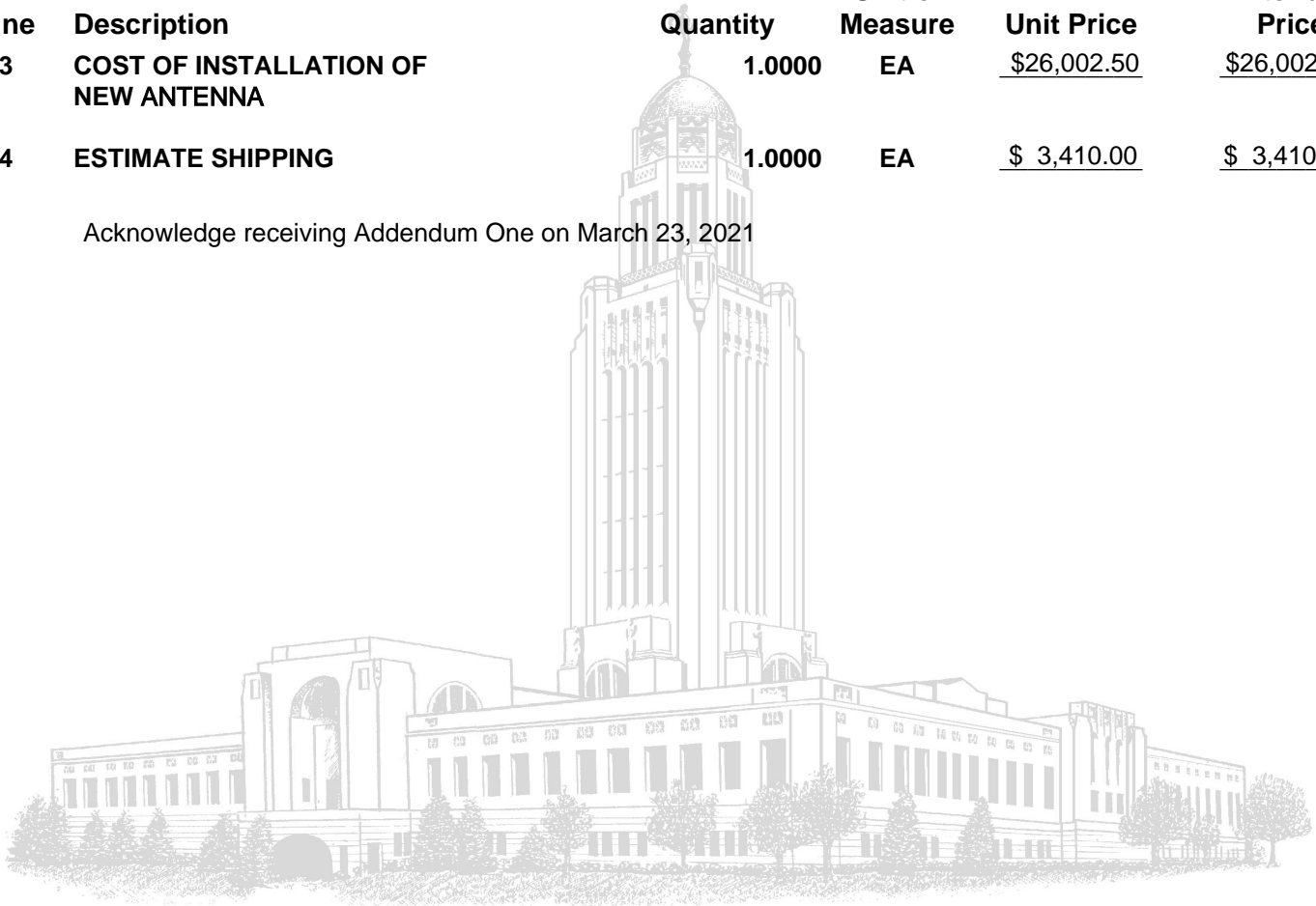
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INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
3	COST OF INSTALLATION OF NEW ANTENNA	1.0000	EA	\$26,002.50	\$26,002.50
4	ESTIMATE SHIPPING	1.0000	EA	\$ 3,410.00	\$ 3,410.00

Acknowledge receiving Addendum One on March 23, 2021



INVITATION TO BID

Number 6504 OF

The State of Nebraska (State), Department of Administrative Services (DAS), Materiel Division, State Purchasing Bureau (SPB), is issuing this solicitation for a one time purchase contract, ITB Number 6504 OF for the purpose of selecting a qualified Contractor to provide Dielectric DCRM10CR FM antenna for KRNE-FM. A more detailed description can be found in Sections V – VI. The resulting contract may not be an exclusive contract as the State reserves the right to contract for the same or similar goods from other sources now or in the future.

INFORMATION PERTINENT TO THIS ITB CAN BE FOUND ON THE INTERNET AT:

<http://das.nebraska.gov/materiel/purchasing.html>

PUBLIC POSTING NOTICE:

Pursuant to the Taxpayer Transparency Act (Neb. Rev. Stat. §§ 84-602.01 to 84-602.04) and in furtherance of public records statutes (Neb. Rev. Stat. § 84-712 et seq.), State contracts, must be posted to a public website. The resulting Contract, the ITB, and the successful Bidder's entire bid and response will be posted to a public website managed by DAS, which can be found at:

<https://statecontracts.nebraska.gov>

If the Bidder wishes to withhold proprietary or other commercial information from disclosure, the Bidder must do the following:

- a. Identify the Proprietary Information;
- b. Mark the Proprietary Information; and
- c. Submit the Proprietary Information in a separate container or envelope marked clearly using an indelible method with the words "PROPRIETARY INFORMATION".

The mere assertion that information is proprietary or that a speculative Business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992). **THE BIDDER MAY NOT ASSERT THAT THE ENTIRE BID IS PROPRIETARY. COST WILL NOT BE CONSIDERED PROPRIETARY AND IS A PUBLIC RECORD SUBJECT TO DISCLOSURE.**

The State may require a Bidder to submit more information, including, but not limited to, a detailed explanation as to how and why the designated information is proprietary.

The State Will determine, in its sole discretion, if the disclosure of the designated Proprietary Information would:

- a. Give advantage to Business competitors; and
- b. Serve no public purpose.

Absent a determination by the State that the information may be withheld pursuant to Neb. Rev. Stat. § 84-712.05, the State Will consider all information a public record subject to disclosure.

In the event that disclosure of Proprietary Information is ordered or requested, it Will be the Bidder's responsibility to assert and defend the non-disclosure.

To facilitate public postings, with the exception of Proprietary Information, the State reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, bid, or response to this ITB for any purpose, and to authorize others to use the documents. Any individual or entity Awarded a contract, or who submits a bid or response to this ITB, specifically waives any Copyright or other protection the contract, bid, or response to the ITB may have; and, acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a bid or response to this ITB, and Award of a contract. Failure to agree to the reservation and waiver Will result in the bid or response to the ITB being found non-responsive and rejected.

Any entity Awarded a contract or submitting a bid or response to the ITB agrees not to sue, file a claim, or make a demand of any kind, and Will indemnify and hold harmless the State and its employees, volunteers, Agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of the contract or the bids and responses to the ITB, Awards, and other documents.

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GLOSSARY OF TERMS

Acceptance Test Procedure: Benchmarks and other performance criteria, developed by the State or other sources of testing standards, for measuring the effectiveness of products or goods and the means used for testing such performance

Addendum: Something to be added or deleted to an existing document; a supplement

After Receipt of Order (ARO): After Receipt of Order

Agency: Using agencies shall mean and include all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations

Agent/Representative: A person authorized to act on behalf of another

Amend: To alter or change by adding, subtracting, or substituting

Amendment: A written correction or alteration to a document

Appropriation: Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use

Automated Clearing House (ACH): Electronic network for financial transactions in the United States

Award: All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the solicitation

Best and Final Offer (BAFO): In a competitive proposal, the final offer submitted which contains contractor's most favorable terms for price

Bid Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the contractor will not withdraw the proposal

Bidder: A contractor who submits an offer proposal in response to a written solicitation

Breach: Violation of a contractual obligation by failing to perform or repudiation of one's own promise.

Business: Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity

Business Day: Any weekday, except State-recognized holidays

Calendar Day: Every day shown on the calendar including Saturdays, Sundays, and State/Federal holidays

Cancellation: To call off or revoke a proposal, purchase order or contract without expectation of conducting or performing at a later time

Catalog/Non-Core: A printed or electronic list of products a contractor may provide at a discounted rate or discount off list price to the State. Initial contract award(s) is not based on Catalog/Non-Core items

Central Processing Unit (CPU): Any computer or computer system that is used by the State to store, process, or retrieve data or perform other functions using Operating Systems and applications software

Change Order: Document that provides amendments to an executed purchase order

Collusion: An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose

Commodities: Any equipment, material, supply or goods; anything movable or tangible that is provided or sold

Commodities Description: Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results

Competition: The effort or action of two or more commercial interests to obtain the same business from third parties

Confidential Information: Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska

Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive

Contract: An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement

Contract Administration: The management of the contract which includes and is not limited to contract signing, contract amendments and any necessary legal actions

Contract Management: The management of day to day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings and making payments to the Contractor

Contract Period: The duration of the contract

Contractor: An individual or entity lawfully conducting business in the State, who seeks or agrees to provide goods or services under the terms of a written contract.

Cooperative Purchasing: The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses or other public benefits

Copyright: A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt and distribute the work

Core List: Items specifically listed on the solicitation upon which a proposal is evaluated for award .

Critical Program Error: Any Program Error, whether or not known to the State, which prohibits or significantly impairs use of the Licensed Software as set forth in the documentation and intended in the contract

Customer Service: The process of ensuring customer satisfaction by providing assistance and advice on those products or goods provided by a Contractor

Default: The omission or failure to perform a contractual duty

Deviation: Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract

Evaluation: The process of examining an offer after opening to determine the contractor's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award

Evaluation Committee: Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of proposal/s (offers made in response to written solicitations)

Extension: Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period"

Free on Board (F.O.B.) Destination: The delivery charges are included in the quoted price and prepaid by the contractor. Contractor is responsible for all claims associated with damages during delivery of product

Free on Board (F.O.B.) Point of Origin: The delivery charges are not included in the quoted price and are the responsibility of the agency. Agency is responsible for all claims associated with damages during delivery of product

Freight – Pre-Paid and Add: The delivery charges are paid by the shipper and agency pays after receipt of goods when invoiced.

Foreign Corporation: A foreign corporation that was organized and chartered under the laws of another state, government, or country.

Installation Date: The date when the procedures described in "Installation by Contractor", and "Installation by State", as found in the solicitation, or contract are completed.

Interested Party: A person, acting in their personal capacity, or an entity entering into a contract or other agreement creating a legal interest therein

Invalid Proposal: A proposal that does not meet the requirements of the solicitation or cannot be evaluated against the other proposals.

Invitation to Bid (ITB): A written solicitation utilized for obtaining competitive offers for Services or Goods

Late Proposal: An offer received after the Opening Date and Time

Licensed Software Documentation: The user manuals and any other materials in any form or medium customarily provided by the Contractor to the users of the Licensed Software which will provide the State with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently

Mandatory/Must: Required, compulsory, or obligatory

May: Discretionary, permitted; used to express possibility

Module (see System): A collection of routines and data structures that perform a specific function of software

Must: See Mandatory/Must and Shall/Will/Must

National Institute for Governmental Purchasing (NIGP): National Institute of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services

Non-core: See Catalog.

Open Market Purchase: Authorization may be given to an agency to purchase items above direct purchase authority due to the unique nature, price, quantity, location of the using agency, or time limitations by the AS Materiel Division, State Purchasing Bureau

Opening Date and Time: Specified date and time for the public opening of received, labeled, and sealed formal proposals

Operating System: The control program in a computer that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources

Outsourcing: The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the process is purchased back

Payroll & Financial Center (PFC): Electronic procurement system of record

Performance Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the Contractor fulfills any and all obligations under the contract

Platform: A specific hardware and Operating System combination that is different from other hardware and Operating System combinations to the extent that a different version of the Licensed Software product is required to execute properly in the environment established by such hardware and Operating System combination

Point of Contact (POC): The person designated to receive communications and to communicate

Pre-Proposal Conference: A meeting scheduled for the purpose of clarifying a written solicitation and related expectations

Product: Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption

Program Error: Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any Critical Program Error

Program Set: The group of programs and products, including the Licensed Software specified in the solicitation, plus any additional programs and products licensed by the State under the contract for use by the State

Project: The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities, and goods to be provided under the contract

Proposal: An offer, bid, or quote submitted by a contractor/vendor in a response to a written solicitation

Proprietary Information: Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and service no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific named competitor(s) advantaged by release of the information and the demonstrated advantage the named competitor(s) would gain by the release of information

Protest/Grievance: A complaint about a governmental action or decision related to the solicitation or resultant contract, brought by a contractor who has timely submitted a proposal response in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result

Public Proposal Opening: The process of opening correctly submitted offers at the time and place specified in the written solicitation

and in the presence of anyone who wished to attend

Quote: See Proposal

Recommended Hardware Configuration: The data processing hardware (including all terminals, auxiliary storage, communication, and other peripheral devices) to the extent utilized by the State as recommended by the Contractor.

Release Date: The date of public release of the written solicitation to seek offers

Renewal Period: Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions. Not to be confused with Extension

Request for Information (RFI): A general invitation to contractor is requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation

Responsible Contractor: A Contractor who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance

Responsive Contractor: A Contractor who has submitted a proposal which conforms to all requirements of the solicitation document

Shall: See Must

Should: Expected; suggested, but not necessarily mandatory

Software License: Legal instrument with or without printed material that governs the use or redistribution of licensed software

Sole Source – Commodity: When an item is available from only one source due to the unique nature of the requirement, its contractor, or market conditions

Sole Source – Service: A service of such a unique nature that the contractor selected is clearly and justifiably the only practical source to provide the service. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required

Specifications: The detailed statement, especially of the measurements, quality, materials, and functional characteristics, or other items to be provided under a contract

Statutory: These clauses are controlled by state law and are not subject to negotiation

Subcontractor: Individual or entity with whom the contractor enters a contract to perform a portion of the work awarded to the contractor

System (see Module): Any collection or aggregation of two (2) or more Modules that is designed to function, or is represented by the Contractor as functioning or being capable of functioning, as an entity

Termination: Occurs when the contract expires or either party, pursuant to a power created by agreement or law puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives

Third-Party: Any person or entity, including but not limited to fiduciaries, shareholders, owners, officers, managers, employees, legally disinterested persons, and sub-contractors or agents, and their employees. It shall not include any entity or person who is an interested Party to the contract or agreement

Trade Secret: Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. § 87-502(4))

Trademark: A word, phrase, logo, or other graphic symbol used by a manufacturer or contractor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office

Upgrade: Any change that improves or alters the basic function of a product of service

Vendor Performance Report: A report completed by the using agency and submitted to State Purchasing Bureau documenting products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications.

Vendor: Inclusive term for any Bidder or Contractor.

Will: See Mandatory/Must/Shall

Work Day: See Business Day

ACRONYM LIST

ARO – After Receipt of Order

ACH – Automated Clearing House

BAFO – Best and Final Offer

COI – Certificate of Insurance

CPU – Central Processing Unit

DAS – Department of Administrative Services

F.O.B. – Free on Board

ITB – Invitation to Bid

NIGP – National Institute for Governmental Purchasing

PA – Participating Addendum

RFI – Request for Information

RFP – Request for Proposal

SPB – State Purchasing Bureau

I. PROCUREMENT PROCEDURE

A. GENERAL INFORMATION

The solicitation is designed to solicit proposals from qualified Contractors who will be responsible for providing Dielectric DCRM10CR FM antenna for KRNE-FM at a competitive and reasonable cost. Terms and Conditions, Project Description and Scope of Work, Proposal instructions, and Cost Proposal Requirements may be found in Sections II through VI.

Proposals shall conform to all instructions, conditions, and requirements included in the solicitation. Prospective Contractors are expected to carefully examine all documents, schedules, and requirements in this solicitation, and respond to each requirement in the format prescribed. Proposals may be found non-responsive if they do not conform to the solicitation.

B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS

Procurement responsibilities related to this solicitation reside with SPB. The point of contact (POC) for the procurement is as follows:

Name: Julie Dabydeen
Agency: State Purchasing Bureau
Address: 1526 K Street, Suite 130
Lincoln, NE 68508

Telephone: 402-471-6500

E-Mail: as.materielpurchasing@nebraska.gov

From the date the solicitation is issued until the Intent to Award is issued, communication from the Contractor is limited to the POC listed above. After the Intent to Award is issued, the Contractor may communicate with individuals the State has designated as responsible for negotiating the contract on behalf of the State. No member of the State Government, employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this solicitation. The POC will issue any answers, clarifications or amendments regarding this solicitation in writing. Only the SPB or awarding agency can award a contract. Contractors shall not have any communication with, or attempt to communicate or influence any evaluator involved in this solicitation.

The following exceptions to these restrictions are permitted:

1. Contact made pursuant to pre-existing contracts or obligations;
2. Contact required by the schedule of events or an event scheduled later by POC; and
3. Contact required for negotiation and execution of the final contract.

The State reserves the right to reject a contractor's proposal, withdraw an Intent to Award, or terminate a contract if the State determines there has been a violation of these procurement procedures.

C. SCHEDULE OF EVENTS

The State expects to adhere to the procurement schedule shown below, but all dates are approximate and subject to change.

ACTIVITY		DATE/TIME
1.	Release solicitation	March 10, 2021
2.	Last day to submit written questions https://nebraska.sharefile.com/r-r86edc305a3aa42d4a84c005e8af5f98c	March 21, 2021
3.	State responds to written questions through a solicitation "Addendum" and/or "Amendment" to be posted to the Internet at: http://das.nebraska.gov/materiel/purchasing.html	March 23, 2021
4.	Proposal Opening https://nebraska.sharefile.com/r-r98b7fe5d86fe494bb2929320d19fbb42 Join Zoom Meeting https://us02web.zoom.us/j/86095474649?pwd=NnpldlNXSGZQS1ZIRFVpSU5nVFR4QT09 Meeting ID: 860 9547 4649 Passcode: 942628	April 2, 2021 2:00 PM Central Time
5.	Review for conformance with proposal requirements	April 2, 2021
6.	Review period	TBD
7.	Post "Notification of Intent to Award" to Internet at: http://das.nebraska.gov/materiel/purchasing.html	TBD
8.	Purchase Order finalization period	TBD
9.	Purchase Order award	TBD
10.	Purchase Order Issuance	TBD

D. WRITTEN QUESTIONS AND ANSWERS

Questions regarding the meaning or interpretation of any solicitation provision must be submitted in writing to SPB and clearly marked "ITB Number 6504 OF; Dielectric DCRM10CR FM antenna for KRNE-FM Questions". POC is not obligated to respond to questions that are received late per the Schedule of Events.

Bidders should present, as questions, any assumptions upon which the Bidder's proposal is or might be developed. Proposals will be evaluated without consideration of any known or unknown assumptions of a Bidder. The contract will not incorporate any known or unknown assumptions of a Contractor.

The following link via ShareFile Questions shall be uploaded:
<https://nebraska.sharefile.com/r-r86edc305a3aa42d4a84c005e8af5f98c>

It is recommended that Contractors submit questions using the following format.

Solicitation Section Reference	Solicitation Page Number	Question

Written answers will be posted at <http://das.nebraska.gov/materiel/purchasing.html> per the Schedule of Events.

E. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS (Statutory)

All Contractors must be authorized to transact business in the State and comply with all Nebraska Secretary of State Registration requirements. The Contractor who is the recipient of an Intent to Award will be required to certify that it has complied and produce a true and correct copy of its current (within ninety (90) calendar days of the intent to award) Certificate or Letter of Good Standing, or in the case of a sole proprietorship, provide written documentation of sole proprietorship and the United States Citizenship Attestation Form, available on the DAS website at: <http://das.nebraska.gov/materiel/purchasing.html>. This must be accomplished prior to execution of the contract.

F. ETHICS IN PUBLIC CONTRACTING

The State reserves the right to reject proposals, withdraw an intent to award or award, or terminate a contract if a Contractor commits or has committed ethical violations, which include, but are not limited to:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the bidding process;
2. Utilize the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the bidding process;
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any state or federal entity;
4. Submitting a proposal on behalf of another party or entity;
5. Collude with any person or entity to influence the bidding process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair advantage, subvert the proposal, or prejudice the State.

The Contractor shall include this clause in any subcontract entered into for the exclusive purpose of performing this contract.

Contractor shall have an affirmative duty to report any violations of this clause by the Contractor throughout the bidding process, and throughout the term of this contract for the successful Contractor and their subcontractors.

G. DEVIATIONS FROM THE INVITATION TO BID

The requirements contained in the solicitation (Sections II through VI) become a part of the terms and conditions of the contract resulting from this solicitation. Any deviations from the solicitation in Sections II through VI must be clearly defined by the Contractor in its proposal and, if accepted by the State, will become part of the contract. Any specifically defined deviations must not be in conflict with the basic nature of the solicitation, solicitation requirements, or applicable state or federal laws or statutes. "Deviation", for the purposes of this solicitation, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this solicitation. The State discourages deviations and reserves the right to reject proposed deviations.

H. SUBMISSION OF PROPOSALS

The State is accepting only electronically submitted responses for this ITB.

It is the Bidders responsibility to ensure the bid is submitted and received by the date and time indicated in the Schedule of Events. All electronic bids must be received by the State Purchasing Bureau by the date and time of the bid opening per the Schedule of Events. **No late bids will be accepted.**

The State shall not incur any liability for any costs incurred by bidders in replying to this ITB, in the demonstrations and/or oral presentations, or in any other activity related to bidding on this ITB.

The Invitation to Bid form must be manually signed in an indelible manner or by DocuSign and returned by the bid opening date and time along with the bidder's Invitation to Bid and any other requirements as stated in the Invitation to Bid document in order for the bidder's Invitation to Bid response to be evaluated.

It is the responsibility of the bidder to check the website for all information relevant to this Invitation to Bid to include addenda and/or amendments issued prior to the opening date. Website address is as follows: <http://das.nebraska.gov/materiel/purchasing.html>.

Emphasis should be concentrated on conformance to the ITB instructions, responsiveness to requirements, completeness, and clarity of content. If the bidder's bid is presented in such a fashion that makes evaluation difficult or overly time consuming the State reserves the right to reject the bid as non-responsive.

By signing the Invitation to Bid, the contractor guarantees compliance with the provisions stated in this ITB.

SUBMITTING ELECTRONIC RESPONSES:

1. Bidders submitting electronically can upload the response via ShareFile here:
 - a. <https://nebraska.sharefile.com/r-r98b7fe5d86fe494bb2929320d19fbb42>
 - b. Note to Bidders: Not all browsers are compatible with ShareFile. Currently Chrome, Internet Explorer and Firefox are compatible.
 - c. **To upload files:** click the link, enter email address, First Name, Last Name and Company and click Continue
2. The ITB, Cost Sheet (if applicable) and Proprietary Information (if applicable) should be uploaded as separate and distinct files. If multiple bids are submitted, the State will retain only the most recently submitted response.
3. **ELECTRONIC PROPOSAL FILE NAMES**
The bidder should clearly identify the uploaded ITB bid files. To assist in identification please use the following naming convention:
4. ITB 6504 OF ABC Company
5. If multiple files are submitted for one ITB bid, add number of files to file names: ITB 6504 OF ABC Company File 1 of 2.
6. If multiple ITB bids are submitted for the same ITB, add the bid number to the file names: ITB 6504 OF ABC Company Proposal 1 File 1 of 2.

The State shall not incur any liability for any costs incurred by contractors in replying to this ITB, in the demonstrations and/or oral presentations, or in any other activity related to bidding on this ITB.

I. PROPOSAL PREPARATION COSTS

The State shall not incur any liability for any costs incurred by Contractors in replying to this solicitation, including any activity related to bidding on this solicitation.

J. FAILURE TO COMPLY WITH INVITATION TO BID

Violation of the terms and conditions contained in this solicitation or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. Rejection of a Contractor's proposal;
2. Withdrawal of the Intent to Award;
3. Withdrawal of the Award;
4. Negative Vendor Performance Report(s)
5. Termination of the resulting contract;
6. Legal action; or,
7. Suspension of the Contractor from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

K. PROPOSAL CORRECTIONS

A contractor may correct a mistake in a proposal prior to the time of opening by giving written notice to the State of intent to withdraw the proposal for modification or to withdraw the proposal completely. Changing a proposal after opening may be permitted if the change is made to correct a minor error that does not affect price, quantity, quality, delivery, or contractual conditions. In case of a mathematical error in extension of price, unit price shall govern.

L. LATE PROPOSALS

Proposals received after the time and date of the proposal opening will be considered late proposals. Late proposals will be returned unopened, if requested by the Contractor and at Contractor's expense. The State is not responsible for proposals that are late or lost regardless of cause or fault.

M. PROPOSAL OPENING

Anyone may attend the opening. It is considered a public opening. The Buyer will read the names of the respondents. Depending upon the complexity of the proposal for goods, the buyer may read the proposals aloud or allow proposals be available for viewing by the public during the proposal opening. Once the proposal opening has concluded, the proposals will not be available for viewing until the Intent to Award has been posted. An initial proposal tabulation will be posted to the website as soon as feasible. Information identified as proprietary by the submitting contractor, in accordance with the solicitation and state statute, will not be posted. If the state determines submitted information should not be withheld, in accordance with the [Public Records Act](#), or if ordered to release any withheld information, said information may then be released. The submitting contractor will be notified of the release and it shall be the obligation of the submitting contractor to take further action, if it believes the information should not be released.

N. INVITATION TO BID/PROPOSAL REQUIREMENTS

The proposals will first be examined to determine if all requirements listed below have been addressed and whether further evaluation is warranted. Proposals not meeting the requirements may be rejected as non-responsive. The requirements are:

1. Original Commodity ITB form signed using an indelible method (electronic signatures are acceptable);
2. Clarity and responsiveness of the proposal;
3. Completed Sections II through VI;
4. Completed ITB Form.

O. EVALUATION OF PROPOSALS

All proposals that are responsive to the solicitation will be evaluated based on the following:

1. Cost Proposal

Neb. Rev. Stat. §81-161 allows the quality of performance of previous contracts to be considered when evaluating responses to competitively bid solicitations in determining the lowest responsible bidder. Information obtained from any Vendor Performance Report (See Terms & Conditions, Section H) may be used in evaluating responses to solicitations for goods and services to determine the best value for the State.

Neb. Rev. Stat. §73-107 allows for a preference for a resident disabled veteran or business located in a designated enterprise zone. When a state contract is to be awarded to the lowest responsible contractor, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident contractor, if all other factors are equal.

Resident disabled veterans means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection and (ii) the management and daily business operations of the business are controlled by one or more persons described in subdivision(a) of this subsection. Any contract entered into without compliance with this section shall be null and void.

Therefore, if a resident disabled veteran or business located in a designated enterprise zone submits a proposal in accordance with Neb. Rev. Stat. §73-107 and has so indicated on the ITB cover page under "Contractor must

complete the following” requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the contractor within ten (10) business days of request:

1. Documentation from the United States Armed Forces confirming service;
2. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions);
3. Disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense; and
4. Documentation which shows ownership and control of a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection; and the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

Failure to submit the requested documentation within ten (10) business days of notice will disqualify the contractor from consideration of the preference.

P. BEST AND FINAL OFFER

If best and final offers (BAFO) are requested by the State and submitted by the contractor, they will be evaluated (using the stated BAFO criteria) and ranked by the Evaluation Committee. The State reserves the right to conduct more than one BAFO. The award will then be granted to the lowest responsible contractor. However, a contractor should provide its best offer in its original proposal. Contractors should not expect that the State will request a BAFO.

Q. REFERENCE AND CREDIT CHECKS

The State reserves the right to conduct and consider reference and credit checks. The State reserves the right to use third parties to conduct reference and credit checks. By submitting a proposal in response to this solicitation, the contractor grants to the State the right to contact or arrange a visit in person with any or all of the contractor’s clients. Reference and credit checks may be grounds to reject a proposal, withdraw an intent to award, or rescind the award of a contract.

R. AWARD

The State reserves the right to evaluate proposals and award contracts in a manner utilizing criteria selected at the State's discretion and in the State's best interest. After evaluation of the proposals, or at any point in the solicitation process, the State of Nebraska may take one or more of the following actions:

1. Amend the solicitation;
2. Extend the time of or establish a new proposal opening time;
3. Waive deviations or errors in the State’s solicitation process and in contractor proposals that are not material, do not compromise the solicitation process or a contractor’s proposal, and do not improve a contractor’s competitive position;
4. Accept or reject a portion of or all of a proposal;
5. Accept or reject all proposals;
6. Withdraw the solicitation;
7. Elect to rebid the solicitation;
8. Award single lines or multiple lines to one or more contractors; or,
9. Award one or more all-inclusive contracts.

The State of Nebraska may consider, but is not limited to considering, one or more of the following award criteria:

1. Price;
2. Location;
3. Quality;
4. Delivery time;
5. Contractor qualifications and capabilities;
6. State contract management requirements and/or costs; and,

The solicitation does not commit the State to award a contract. Once intent to award decision has been determined, it will be posted to the Internet at:

<http://das.nebraska.gov/materiel/purchasing.html>

Any protests must be filed by a contractor within ten (10) business days after the intent to award decision is posted to the Internet. Grievance and protest procedure is available on the Internet at:

<http://das.nebraska.gov/materiel/purchasing.html>

S. SPECIFICATIONS

Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The Materiel Administrator will be the sole judge of equivalency. The Contractor may offer any brands which meets or exceeds the specification. When a specific product is required, the solicitation will so state. Any item proposal is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

T. ALTERNATE/EQUIVALENT PROPOSALS

Contractor may offer proposals which are at variance from the express specifications of the solicitation. The State reserves the right to consider and accept such proposals if, in the judgment of the Materiel Administrator, the proposal will result in goods and/or services equivalent to or better than those which would be supplied in the original proposal specifications. Contractor must indicate on the solicitation the manufacturer's name, number and shall submit with their proposal, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous proposal will not satisfy this provision. Proposals which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the proposal will be accepted as in strict compliance with all terms, conditions and specification, and the Contractor shall be held liable therefore.

U. LUMP SUM OR "ALL OR NONE" PROPOSALS

The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Contractors may submit a proposal on an "all or none" or "lump sum" basis, but should also submit a proposal on an item-by-item basis. The term "all or none" means a conditional proposal which requires the purchase of all items on which proposals are offered and Contractor declines to accept award on individual items; a "lump sum" proposal is one in which the Contractor offers a lower price than the sum of the individual proposals if all items are purchased, but agrees to deliver individual items at the prices quoted.

V. EMAIL SUBMISSIONS

SPB will not accept proposals by email, electronic, voice, or telephone proposals **except** for one-time purchases under \$50,000.00.

W. PROPOSAL TABULATIONS

Proposal tabulations are available on the website at: <http://das.nebraska.gov/materiel/purchasing.html>.

X. REJECTION OF PROPOSALS

The State reserves the right to reject any or all proposals, wholly or in part, in the best interest of the State.

Y. RESIDENT BIDDER

Pursuant to Neb. Rev. Stat. §§ 73-101.01 through 73-101.02, a Resident Bidder shall be allowed a preference against a Non-resident Bidder from a state which gives or requires a preference to Bidders from that state. The preference shall be equal to the preference given or required by the state of the Nonresident Bidders. Where the lowest responsible bid from a resident Bidder is equal in all respects to one from a nonresident Bidder from a state which has no preference law, the resident Bidder shall be awarded the contract. The provision of this preference shall not apply to any contract for any project upon which federal funds would be withheld because of the provisions of this preference.

II. TERMS AND CONDITIONS

Contractors should complete Section II through VI as part of their proposal. Contractor is expected to read the Terms and Conditions and must initial either accept, reject, or reject and provide alternative language for each clause. The Contractor should also provide an explanation of why the Contractor rejected the clause or rejected the clause and provided alternate language using "Track Changes". Upon request an electronic copy of the proposal with "Track Changes" must be submitted in an editable Word format. By signing the solicitation, Contractor is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the proposal. The State reserves the right to negotiate rejected or proposed alternative language. If the State and Contractor fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State is soliciting proposals in response to the solicitation. The State reserves the right to reject proposals that attempt to substitute the Contractor's commercial contracts and/or documents for this solicitation.

The Contractor should submit with their proposal any license, user agreement, service level agreement, or similar documents that the Contractor wants incorporated in the Contract. Upon notice of Intent to Award, the Contractor must submit a copy of these documents in an editable Word format. The State will not consider incorporation of any document not submitted with the Contractor's proposal. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the addendums have been negotiated and agreed to, the addendums shall be interpreted as follows:

1. If only one (1) Party's document has a particular clause then that clause shall control;
2. If both Party's documents have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Party's documents have a similar clause, but the clauses conflict, the State's clause shall control.

A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JAR</i>			

The contract resulting from this solicitation shall incorporate the following documents:

1. Invitation to Bid and Addenda;
2. Amendments to the solicitation;
3. Questions and Answers;
4. Contractor's proposal response;
5. The executed Contract and any Addenda, if applicable, and properly submitted documents; and,
6. Amendments to the Contract

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to the executed Contract with the most recent dated amendment having the highest priority, 2) executed Contract and any attached Addenda, 3) Amendments to solicitation and any Questions and Answers, 4) the original solicitation document and any Addenda, and 5) the Contractor's submitted Proposal.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State.

B. NOTIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>SHK</i>			

Contractor and State shall identify the contract manager who shall serve as the point of contact for the executed contract.

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth below, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or five (5) calendar days following deposit in the mail.

Contractor Contract Manager	Chris Homer
Contractor	Nebraska Educational Telecommunications (NET)
Contractor Street Address	1800 N 33 rd St.
Contractor City, State, Zip	Lincoln, NE 68503

Either party may change its address for notification purposes by giving notice of the change, and setting forth the new address and an effective date.

C. NOTICE (POC)

The State reserves the right to appoint a Buyer's Representative to manage [or assist the Buyer in managing] the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the Contractor will be provided a copy of the appointment document, and is expected to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

D. GOVERNING LAW (Statutory)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this contract must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third-party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state and federal laws, ordinances, rules, orders, and regulations.

E. BEGINNING OF WORK

The Contractor shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

F. CHANGE ORDERS OR SUBSTITUTIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:

<i>SPB</i>			
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The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the solicitation. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's proposal, were foreseeable, or result from difficulties with or failure of the Contractor's proposal or performance.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

*****Contractor will not substitute any item that has been awarded without prior written approval of SPB*****

G. VENDOR PERFORMANCE REPORT(S)

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>SPB</i>			

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The State Purchasing Bureau may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

H. NOTICE OF POTENTIAL CONTRACTOR BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>SPB</i>			

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

I. BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:

<i>JKH</i>			
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Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time.

In case of breach by the Contractor, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the contractor. The State may recover from the Contractor as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the contract price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Contractor's breach. OR In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies. (See Indemnity - Self-Insurance and Payment)

J. NON-WAIVER OF BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JKH</i>			

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

K. SEVERABILITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JKH</i>			

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

L. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JKH</i>			

1. GENERAL

The Contractor agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all

claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (“the claims”), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. PERSONNEL

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker’s compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor’s and their employees, provided by the Contractor.

3. SELF-INSURANCE (Statutory)

The State is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this contract, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 through 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this contract to the extent provided by law.

M. ATTORNEY’S FEES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>MR</i>			

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney’s fees and costs, if the other party prevails.

N. ASSIGNMENT, SALE, OR MERGER

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>MR</i>			

Either party may assign the contract upon mutual written agreement of the other party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor’s business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

O. CONTRACTING WITH OTHER POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCA</i>			

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. § 81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause.

The Contractor may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State shall be notified if a contract is executed based upon this contract.

P. FORCE MAJEURE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCA</i>			

Neither party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or man-made event outside the control and not the fault of the affected party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other party, and shall have the burden of proof to justify the request. The other Party may granted the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event.

Q. CONFIDENTIALITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCA</i>			

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

III. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
			

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Contractor's proposal shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

The Contractor warrants that all persons assigned to the project shall be employees of the Contractor or a Subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the contract;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees).

If the Contractor intends to utilize any subcontractor, the Subcontractor's level of effort, tasks, and time allocation must be clearly defined in the Contractor's proposal. The Contractor shall agree that it will not utilize any Subcontractors not specifically included in its proposal in the performance of the contract without the prior written authorization of the State.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or Subcontractor employee.

Contractor shall insure that the terms and conditions contained in any contract with a sub-contractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

B. EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing work within the State. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal

program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the DAS website at <http://das.nebraska.gov/materiel/purchasing.html>

The completed United States Attestation Form should be submitted with the solicitation response.

2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 through 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for goods or services to be covered by any contract resulting from this solicitation.

D. COOPERATION WITH OTHER CONTRACTORS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
MCA			

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on the same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals, and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

E. DISCOUNTS

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the proposal. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

F. PRICES

Prices quoted shall be net, F.O.B. Destination – Pre-Paid and Add for transportation and delivery charges to the destination named in the solicitation. No additional charges will be allowed for packing, packages, or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

All prices, costs, and terms and conditions submitted in the proposal shall remain fixed and valid commencing on the opening date of the proposal until an award is made or the solicitation is cancelled.

The State reserves the right to deny any requested price increase. No price increases are to be billed to any State Agencies prior to written amendment of the contract by the parties.

The State will be given full proportionate benefit of any decreases for the term of the contract.

G. COST CLARIFICATION

The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any proposal where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

H. PERMITS, REGULATIONS, LAWS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCH</i>			

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the performance of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

I. INSURANCE REQUIREMENTS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
		<i>JCH</i>	ERI's insurance coverage meets or exceeds the coverages required below except our policy does not include Contractual Liability. If awarded this contract that requirement would need to be waived.

The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Accord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place. If Contractor subcontracts any portion of the Contract the Contractor must, throughout the term of the contract, either:

1. Provide equivalent insurance for each subcontractor and provide a COI verifying the coverage for the subcontractor;
2. Require each subcontractor to have equivalent insurance and provide written notice to the State that the Contractor has verified that each subcontractor has the required coverage; or,
3. Provide the State with copies of each subcontractor's Certificate of Insurance evidencing the required coverage.

The Contractor shall not allow any Subcontractor to commence work until the Subcontractor has equivalent insurance. The failure of the State to require a COI, or the failure of the Contractor to provide a COI or require subcontractor insurance shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within one (1) year of termination or expiration of the contract, the contractor shall obtain an extended discovery or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and one (1) year following termination or expiration of the contract.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

Notwithstanding any other clause in this Contract, the State may recover up to the liability limits of the insurance policies required herein.

1. WORKERS' COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractors' employees to be engaged in work

on the project under this contract and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. **The policy shall include a waiver of subrogation in favor of the State. The COI shall contain the mandatory COI subrogation waiver language found hereinafter.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, and others as required by the contract documents, as Additional Insured(s). This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

REQUIRED INSURANCE COVERAGE	
COMMERCIAL GENERAL LIABILITY	
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 per occurrence
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Medical Payments	\$10,000 any one person
Damage to Rented Premises	\$300,000 each occurrence
Contractual	Included
XCU Liability (Explosion, Collapse, and Underground Damage)	Included
Independent Contractors	Included
If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.	
WORKER'S COMPENSATION	
Employers Liability Limits	\$500K/\$500K/\$500K
Statutory Limits- All States	Statutory - State of Nebraska
Voluntary Compensation	Statutory
COMMERCIAL AUTOMOBILE LIABILITY	
Bodily Injury/Property Damage	\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability	Included
Motor Carrier Act Endorsement	Where Applicable
UMBRELLA/EXCESS LIABILITY	
Over Primary Insurance	\$5,000,000 per occurrence
MANDATORY COI SUBROGATION WAIVER LANGUAGE	
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."	
MANDATORY COI LIABILITY WAIVER LANGUAGE	
"Commercial General Liability & Commercial Automobile Liability policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. State of Nebraska shall be included as additionally insured."	

3. EVIDENCE OF COVERAGE

The Contractor should furnish the State, prior to beginning work and upon, a certificate of insurance coverage complying with the above requirements to the attention of:

Agency: Department of Administrative Services, State Purchasing Bureau
 Attention: Julie Dabydeen
 1526 K Street Suite 130
 Lincoln NE 68508

These certificates or the cover sheet shall reference the ITB number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Reasonable notice of cancellation of any required insurance policy must be submitted to contract manager when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

4. DEVIATIONS

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.

J. NOTICE OF POTENTIAL CONTRACTOR BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JDA</i>			

If Contractor breaches the contract or anticipates breaching the contract the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, and may include a request for a waiver of the breach if so desired. The State may, at its discretion, temporarily or permanently waive the breach. By granting a temporary waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

K. ANTITRUST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JDA</i>			

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

L. CONFLICT OF INTEREST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>NAH</i>			

By submitting a proposal, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this Request for Proposal or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its proposal a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

M. STATE PROPERTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>NAH</i>			

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

N. SITE RULES AND REGULATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>NAH</i>			

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Contractor.

O. ADVERTISING

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCH</i>			

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods and services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

P. DISASTER RECOVERY/BACK UP PLAN

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCH</i>			

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

Q. DRUG POLICY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCH</i>			

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

R. WARRANTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JCH</i>			

Despite any clause to the contrary, the Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Contract. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to Customer, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse Customer the fees paid to Contractor for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

IV. PAYMENT

A. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

B. INVOICES

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. Send invoices to: NET, 1800 N 33rd St., Lincoln, NE 68503 The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

C. INSPECTION AND APPROVAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JKH</i>			

Final inspection and approval of all work required under the contract shall be performed by the designated State officials.

D. PAYMENT (Statutory)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

E. LATE PAYMENT (Statutory)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §§ 81-2401 through 81-2408).

F. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

G. RIGHT TO AUDIT (First Paragraph is Statutory)

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) day written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. § 84-304 et seq.) The State may audit and the Contractor shall maintain the information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. In no circumstances will contractor be

required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
<i>JAK</i>			

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds three percent (3%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.

V. SCOPE OF WORK

The Contractor must provide the following information in response to this solicitation.

A. SCOPE

It is the intent of this solicitation to issue a purchase order for the item(s) requested.

All items proposed shall be of the latest manufacture in production as of the date of the solicitation and be of proven performance and under standard design complete as regularly advertised and marketed. All necessary materials for satisfactory performance of the supplies shall be incorporated into the (Dielectric DCRM10CR FM antenna for KRNE-FM) whether or not they may be specifically mentioned below.

Complete specifications, manufacturer's current descriptive literature and/or advertising data sheets with cuts or photographs must be included with the proposal for the IDENTICAL items proposed. Any information necessary to show compliance with these specifications not given on the manufacturer's descriptive literature and/or advertising data sheets must be supplied in writing on or attached to the proposal document. If manufacturer's information necessary to show compliance with these specifications is not attached to the proposal document, the Contractor may be required to submit requested information within three (3) business days of a written request. Failure to submit requested descriptive literature or advertising data sheets may be grounds to reject the proposal.

VI. TECHNICAL SPECIFICATIONS

A. CONTRACTOR INSTRUCTIONS

Contractor must respond to each of the following statements. Specifications listed are minimum conditions that must be met in order for a Contractor to qualify for the award.

“YES” response means the Contractor guarantees they can meet this condition.

“NO” response means the Contractor cannot meet this condition and will not be considered.

“NO & PROVIDE ALTERNATIVE” responses should be used only with a narrative response in the NOTES/COMMENTS section explaining in detail any deviation from the Contractor’s ability to meet the condition, and an explanation of how this would be determined to be an acceptable alternative to meeting the condition. Alternatives must be detailed in such a way that allows such deviations to be fully evaluated. The State shall determine at its sole discretion whether or not the Contractor’s alternative is an acceptable alternative.

B. NON-COMPLIANCE STATEMENT

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. Read these specifications carefully. Any and all exceptions to these specifications must be written on or attached to solicitation response. Any noncompliance may void your proposal. Non-compliance to any single specification can void your proposal.
X			2. It is the responsibility of Contractors to obtain information and clarifications as provided below. The State is not responsible for any erroneous or incomplete understandings or wrongful interpretations of this solicitation by any Contractor.
X			3. No interpretation related to the meaning of solicitation specifications or other pre-proposal documents will be made orally to any Contractor by the State. Any solicitation interpretation must be put in writing by the Contractor to: the State Purchasing Bureau, E-mail questions to SPB. as.materieipurchasing@nebraska.gov by the last day to submit written questions per the Schedule of Events. (Inquiries received after the last day to submit written questions may not be addressed).
NOTES/COMMENTS:			

C. TECHNICAL SPECIFICATIONS: DIELECTRIC DCRM10CR FM ANTENNA FOR KRNE-FM

YES	NO	NO & PROVIDE ALTERNATIVE	
	X	Provide and install an ERI Model SHPX-10AC-SP	1. Install new Dielectric DCRM10CR FM transmit antenna. Antenna must be optimized to 91.5MHz (Channel 218)
X			2. Budget allotment for this project is \$110,000. Bids above that amount will not be a consideration for award.
X			3. Antenna must be 10 bays, side mount, center fed, circular polarization omni pattern. Site is a remote location with sparse population, no null fill needed.

X			4. Tower specification: Tower is a Dresser-Ideco. Top of steel is 290m (950') AGL, Center of radiation of current FM antenna is 268m AGL. Top bay is currently at 268m AGL and bottom bay currently is 250m AGL.
	X	The estimated TPO required is 22.3 kW	5. ERP is 92kW horizontal plane, 92kW in vertical plane. Max ERP in horizontal plane is 100kW and 100kW in vertical plane. TPO of transmitter is 18.5kW with -17dB HD Injection
X			6. Antenna's rated input power must be 40kW. VSWR on channel is to be close to 1.08:1 List VSWR rating below:
X			7. New antenna is to be mounted on south (B) leg of tower. Tower leg at this location is 4" round steel.
X			8. New antenna will be connected to existing 3 1/8" rigid transmission line.
X			9. Antenna must include radomes
X			10. New antenna must be pressurized. Existing pressurization system has sufficient capacity.
X			11. New antenna must include matching section (variable transformer) for installation between antenna input and feedline.
X			12. Contractor is responsible for tuning and proof of new antenna after installation.
X			13. Contractor must include all hardware needed for mounting new antenna. (any hardware that uses clamps rather than drilling through tower members is preferred)
NOTES/COMMENTS:			

D. TECHNICAL SPECIFICATION: REMOVAL OF OLD ANTENNA

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. Contractor must include removal of old antenna and installation of new antenna.
X			2. Contractor is responsible for removal of old antenna from property when project is complete.
NOTES/COMMENTS:			

E. TECHNICAL SPECIFICATION: INSTALLATION AND SAFETY

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. Does the crew have a climber certification program?
X			2. Does the crew have a site safety plan (emergency phone numbers, site address, etc.?)
X			3. Does the crew wear hard hats?

NOTES/COMMENTS:

F. TECHNICAL SPECIFICATION: PERFORMANCE AND TESTING

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. The antenna must be fully tested with Proof Of Performance documentation, and operational upon completion of installation with written sign off acceptance from NET.
X			2. Should there be a conflict regarding acceptable completion of performance testing, the State's opinion shall prevail.

NOTES/COMMENTS:

G. DELIVERY ARO

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. Delivery desired within (90) days after receipt of order(s).

NOTES/COMMENTS:

H. DELIVERY LOCATIONS / INSTRUCTIONS (CONTRACTOR AGREES THAT THEY CAN MEET THE DELIVERY LOCATIONS/INSTRUCTIONS)

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. KRNE TV/FM transmitter site, 88626 St. Hwy 61, Merriman, NE 69218
X			2. Contact site manager Tim Hanson at 402-822-0408 at least three (3) business days prior to delivery.
X			3. Contractor will be expected to provide equipment and crew necessary for delivery and off-loading of product(s). NET will not provide equipment or crew for off-loading products at site.
X			4. No loading dock available at site.

NOTES/COMMENTS:

I. PACKAGING

YES	NO	NO & PROVIDE ALTERNATIVE	
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X			1. Packages are to be clearly marked with size, weight, color, quantity, and the purchase order number.
X			2. Packaging must be of suitable size and of sufficient strength to protect the contents during shipping, handling and storage.
NOTES/COMMENTS:			

J. ORDERS

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. Orders will be placed either by, phone, e-mail or Internet (if available and not to the exclusion of the other methods).
X			2. All orders must reference a purchase order number and the purchase order number must be referenced on the packing slip, and invoice. Invoices are to be sent to the "Invoice to" address on the purchase order.
NOTES/COMMENTS:			

K. QUALITY

YES	NO	NO & PROVIDE ALTERNATIVE	
X			1. Product quality must meet specifications and be consistent for the term of the contract. All materials must be of first quality, under standard production by the manufacturer and be of standard design, complete as regularly advertised and marketed and be of proven performance.
X			2. A guarantee of satisfactory performance by the contractor and meeting delivery dates are considered to be an integral part of the purchase contract resulting from this proposal invitation.
X			3. Products are to be fully guaranteed and may be returned for full credit or replacement (at the State's option) for any reason during the initial warranty period with no additional charges for shipping or restocking.
NOTES/COMMENTS:			

L. GRAY MARKET PRODUCTS PROHIBITION

YES	NO	NO & PROVIDE ALTERNATIVE	
X			<p>1. The State will not accept Gray Market Products for this solicitation. Gray Market is defined as the trade of a commodity through distribution channels which, while legal, are unofficial, unauthorized, or unintended by the original manufacturer. Gray Market items are not designed to be sold in a particular market and cannot be supported by the authorized importer because of various reasons.</p>
<p>NOTES/COMMENTS:</p>			

M. WARRANTY

YES	NO	NO & PROVIDE ALTERNATIVE	
X			<p>1. The Contractor warrants for a period of one (1) year from the date of Acceptance that: (a) the Products perform according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the State has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the State) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.</p>
<p>NOTES/COMMENTS:</p>			

Form A
Contractor Contact Sheet
Invitation To Bid Number 6504 OF

Form A should be completed and submitted with each response to this solicitation. This is intended to provide the State with information on the Contractor's name and address, and the specific person(s) who are responsible for preparation of the Contractor's response.

Preparation of Solicitation Contact Information	
Contractor Name:	Electronics Research, Inc.
Contractor Address:	7777 Gardner Road Chandler, IN 47610
Contact Person & Title:	Bill Harland, Vice President of Marketing
E-mail Address:	bharland@eriinc.com
Telephone Number (Office):	+1 (812) 925-6000, Ext. 214
Telephone Number (Cellular):	+1 (812) 455-1823
Fax Number:	+1 (812) 925-4030

Each Contractor shall also designate a specific contact person who will be responsible for responding to the State if any clarifications of the Contractor's response should become necessary.

Communication with the State Contact Information	
Contractor Name:	Electronics Research, Inc.
Contractor Address:	7777 Gardner Road Chandler, IN 47610
Contact Person & Title:	Bill Harland, Vice President of Marketing
E-mail Address:	bharland@eriinc.com
Telephone Number (Office):	+1 (812) 925-6000, Ext. 214
Telephone Number (Cellular):	+1 (812) 455-1823
Fax Number:	+1 (812) 925-4030

ADDENDUM ONE, QUESTIONS and ANSWERS

Date: March 23, 2021

To: All Bidders

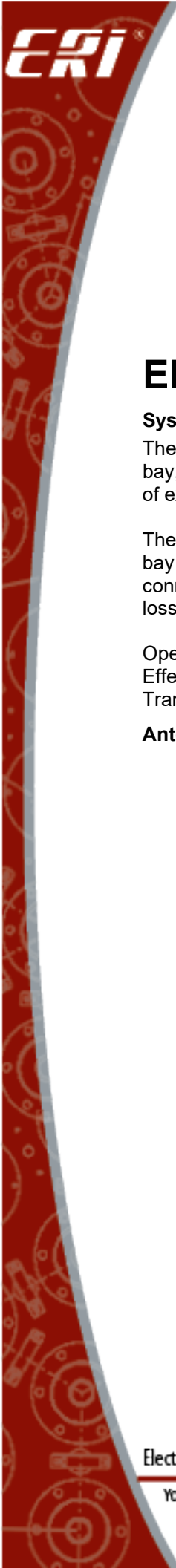
From: Julie Dabydeen, Buyer
AS Materiel State Purchasing Bureau

RE: Addendum for Invitation to Bid Number 6504 OF to be opened on April 2, 2021, at 2:00 P.M.
Central Time

Questions and Answers

No questions were received for Invitation to Bid Number 6504 OF.

This addendum will become part of the ITB and should be acknowledged with the Invitation to Bid.



ERI Technical Proposal for State of Nebraska

FM Antenna and Installation for KRNE-FM, Merriman, Nebraska Invitation to Bid 6405 OF

ERI Technical Proposal 20210313-461

System Description:

The item proposed is an ERI Model SHPX-10AC-SP ROTOTILLER® FM antenna. The antenna is a 10-bay, full wavelength spaced, with 0.75-degrees of electrical beam tilt. The antenna is fed with a single run of existing 3-1/8-inch, 50-ohm, rigid transmission line estimated to be 1,010-feet in length.

The scope of services included in the ITB response includes the removal and disposal of the existing 12 bay Dielectric DCR-C12CHT75 antenna with radomes, installation of the new ERI Model SHPX-10AC-SP, connection to the existing transmission line, and field tuning the antenna to optimize the system return loss.

Operating Frequency:91.5 MHz
Effective Radiated Power (ERP):..... 100 kW analog, analog plus -18 dBc HD
Transmission Line Length and Type:.....1010-feet of existing 3-1/8-inch, 50-ohm, rigid line

Antenna Summary:

FM Antenna

Model SHPX-10AC-SP, 10-bay, full wavelength spaced array with 0.75-degrees of electrical beam tilt. Includes mounting brackets and optional radomes and a 10-foot matching section to match the input location of the currently installed antenna.

Factory tuned to 91.5 MHz

Maximum VSWR: 1.07:1 with field tuning

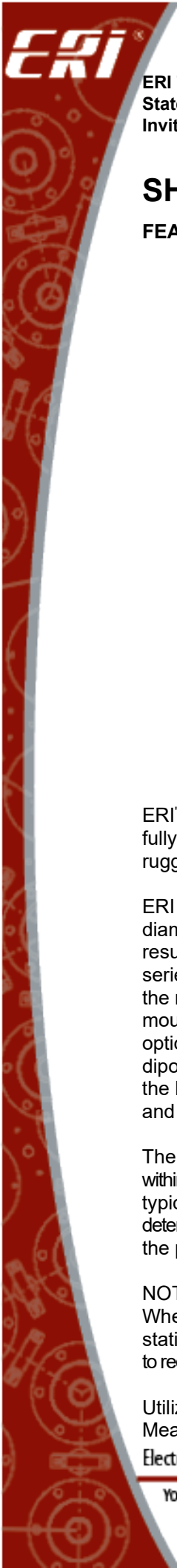
128.53-inch bay-to-bay spacing

3-1/8-inch EIA, 50-ohm, input flange



Preliminary Power Analysis

Antenna Model:	SHPX-10AC			
	<i>Analog</i>		<i>Digital (-17 dBc)</i>	
Call Letters:	KRNE-FM, Merriman, Nebraska			
Frequency:	91.5 MHz	Channel 218		
ERP:	100.000 kW	20.000 dBk	2.000 kW	3.010 dBk
Polarization:	Circular		Circular	
Antenna RMS Gain:	5.544 Numeric	7.438 dB	5.544 Numeric	7.438 dB
Antenna Input Power:	18.039 kW	12.562 dBk	0.361 kW	-4.428 dBk
Peak Voltage:	1,343 volts		380 volts	
Transmission Line Type - Vertical Run:	Existing 3-1/8-inch rigid line		Existing 3-1/8-inch rigid line	
Vertical Run Length:	860 feet	262.1 meters	860 feet	262.1 meters
Vertical Run Attenuation:	0.090 dB/100-feet	0.295 dB/100-meters	0.090 dB/100-feet	0.295 dB/100-meters
Transmission Line Type - Horizontal Run:	Existing 3-1/8-inch rigid line		Existing 3-1/8-inch rigid line	
Horizontal Run Length:	150 feet	45.7 meters	150 feet	45.7 meters
Horizontal Run Attenuation:	0.090 dB/100-feet	0.295 dB/100-meters	0.090 dB/100-feet	0.295 dB/100-meters
Line Loss:	-4.200 kW	0.909 dB	-0.084 kW	0.909 dB
Line Efficiency:	81.115%		81.115%	
Transmitter Power Output:	22.239 kW	13.471 dBk	0.445 kW	-3.519 dBk
Peak Voltage:	1,491 volts		422 volts	



SHPX Series ROTOTILLER® FM Antenna

FEATURES

- Low VSWR
- Internal feed
- Fully pressurized
- Series fed radiating elements
- Circular polarization
- Welded feed connections
- Superior VSWR band width
- High input power capacity
- Custom modifications are available
- Corrosion resistant construction
- Modular construction facilitates easy installation and repair
- Minimal weather related VSWR problems
- Beam tilt and/or null fill available
- Half-wave spacing between elements available
- Rugged brass construction
- Stainless steel support brackets and hardware
- Radomes or deicing heaters not normally required for radial ice less than 1/2-inch
- Radomes or deicing heaters are available
- Custom designed antenna supports; poles or LAMBDA® tower sections are also available from ERI



ERI's original and distinctive design combines the exceptional engineering features of an internally fed, fully pressurized system with superior fabrication characterized by totally welded feed connections, rugged brass material and TIG welding.

ERI antennas are unchallenged in quality and dependability. ERI is the only manufacturer to use large diameter outer conductors and a completely enclosed, pressurized, internal series feed system. The result is a simple and reliable method of coupling power to the elements. Unlike competing designs, ERI series fed antennas do not require a troublesome secondary current loop for element excitation with all the resulting disadvantages. All ERI antennas include brackets for mounting on leg, pole, or face mounting (up to 42-inch uniform cross section tower), brackets for other mounting configurations are optionally available. The Rototiller series FM antenna's unique design consists of two series fed, bent dipole elements which form a space phased, circularly polarized radiator. The antenna's configuration and the large diameter of the radiating elements contribute to the excellent bandwidth of the antenna system, and also inhibits corona discharge.

The horizontally polarized horizontal plane azimuth pattern of the SHPX series antenna is omnidirectional within ± 2 dB when the antenna is pole or Lambda mounted atop a tower. Side mounting the antenna on a typical tower structure will affect the azimuth pattern. ERI offers a pattern measurement service to assist in determining the effect of the mounting structure on the antenna's pattern. Using ERI's pattern optimization service the pattern's circularity may be improved through the addition of parasitically excited elements.

NOTE: The VSWR specifications apply over a frequency ± 200 kHz from the tuning point of the antenna. Where radomes or deicing heaters are not used, this tuning point is customarily set 200 kHz above the station operating frequency to provide improved performance under icing conditions. Parasitic elements tend to reduce the VSWR bandwidth of the antenna.

Utilize the ERI advantage. Combine an ERI antenna with an ERI Lambda® Mounting Structure, Pattern Measurement and Installation. Assure yourself of the best antenna/tower interaction. ERI's Pattern Electronics Research, Inc. • 7777 Gardner Road • Chandler, IN 47610-9219 • USA | +1 812 925-6000 (tel) • +1 812 925-4030 (fax)

Measurement service will provide the crucial answers concerning the relationship between the antenna mounting orientation and antenna pattern. Lambda Sections are designed to achieve optimum antenna performance while reducing weight and wind loads. Only ERI can offer you an antenna/tower/installation package that will achieve your highest expectations in a demanding FM market.

Electrical Specifications

Model Number:	SHPX-10AC	
Bay to Bay Spacing:	1.0 Lambda	
Input Feed:	Center fed	
Operating Frequency:	91.5 MHz	
Polarization:	Clockwise Circular	
Interbay Transmission Line:	3-1/8-inch	
RF Input:	3-1/8-inch EIA Flange, female	
Input Power Rating:	39.0 kW	
Element Type:	SHPX "A" Series	
Azimuth Pattern Circularity:	±2.0 dB in free space	
Power Gain:	Maximum	5.544 numeric (7.438 dBd)
	Horizontal	5.247 numeric (7.199 dBd)
VSWR at Antenna Input:	1.07:1 or less, with field matching	
	1.25:1 or less, pole or LAMBDA® Mounting Section	
	1.50:1 or less, side mounted without field matching	
Electrical Beam Tilt:	0.75 degrees	
First Null Fill:	0%	
Second Null Fill:	0%	
Icing Protection:	Optional radomes available	
	Optional electrical deicers available	

Mechanical Specifications

Antenna Length:	98.90 feet	(30.14 meters)
Antenna Aperture:	96.39 feet	(29.38 meters)
Vertical Tower Aperture Recommended:	108.90 feet	(33.19 meters)
Antenna Weight:		
Antenna only:	1161 pounds	(526.40 kilograms)
Antenna with ½-inch radial ice:	1904 pounds	(863.53 kilograms)
Antenna with radomes:	1822 pounds	(826.23 kilograms)
Antenna with radomes and ½-inch radial ice:	3274 pounds	(1485.16 kilograms)
Antenna EPA Normal Exposure:		
Antenna only:	45.2 square feet	(4.20 square meters)
Antenna with ½-inch radial ice:	57.9 square feet	(5.38 square meters)
Antenna with radomes:	96.1 square feet	(8.93 square meters)
Antenna with radomes and ½-inch radial ice:	110.3 square feet	(10.25 square meters)
Antenna EPA Transverse Exposure:		
Antenna only:	47.5 square feet	(4.41 square meters)
Antenna with ½-inch radial ice:	61.2 square feet	(5.69 square meters)
Antenna with radomes:	80.5 square feet	(7.48 square meters)
Antenna with radomes and ½-inch radial ice:	95.6 square feet	(8.88 square meters)

Mechanical Specification Notes:

(1) All loads calculated in accordance with the ANSI/TIA-222 standard. (2) Provided effective projected areas, EPA, do NOT include potential wind shielding/interference due to the interaction with the supporting structure (i.e. does not include Ka factor). (3) Listed antenna weights and effective wind areas include the antenna radiating elements, feed harnessing, and standard leg mounting brackets. Special mounting bracket loads for face-mounted and/or pole standoff mounted systems are NOT included. Final design loads will vary for specific projects and should be verified by an ERI representative when precise loading is required.



Electronics Research, Inc.
7777 Gardner Road
Chandler, In. 47610

Figure 1

---Theoretical---

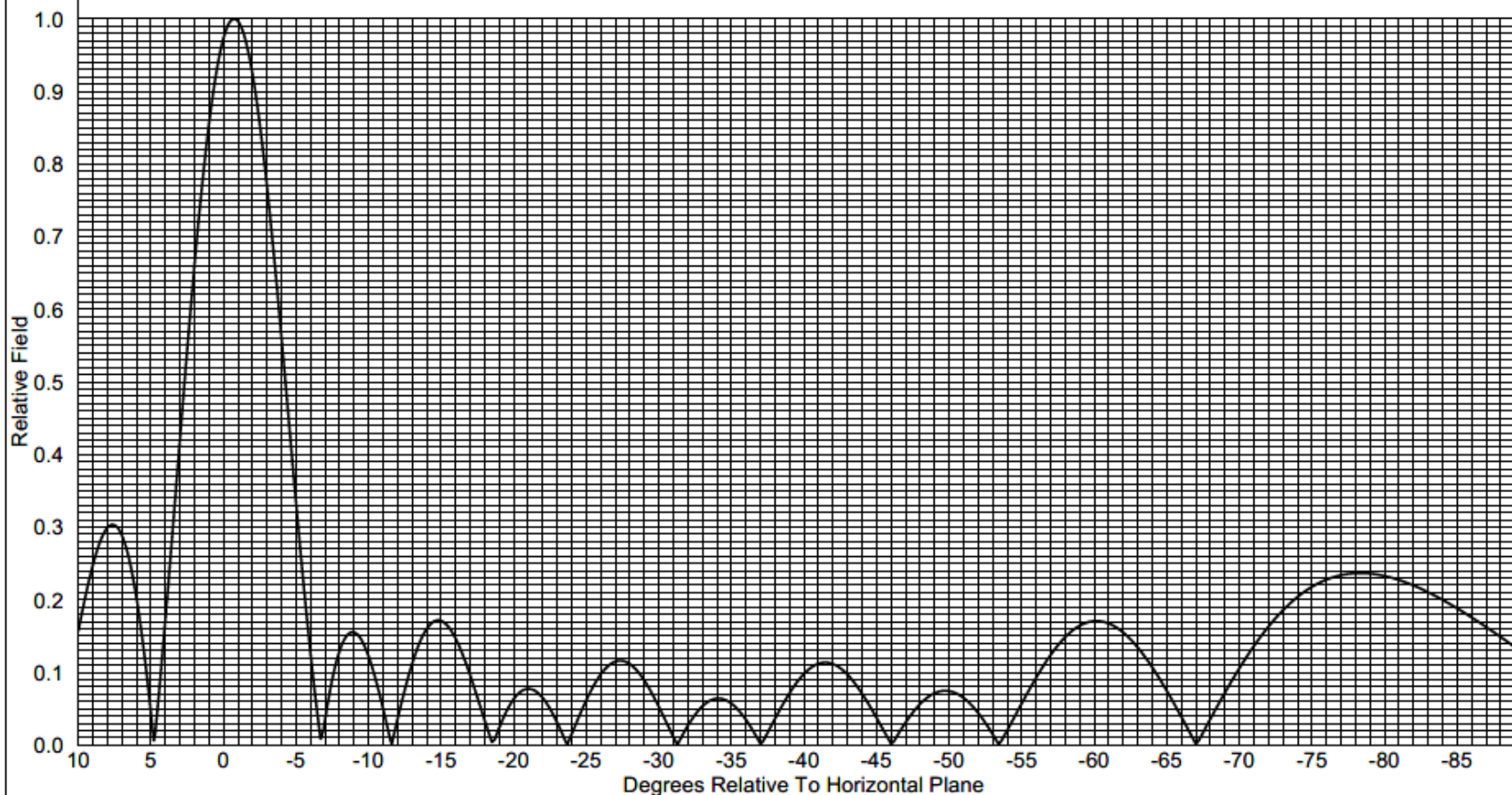
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Vertical Plane Relative Field
10 ERI Type SHPX Elements
-0.75 Degree(s) Electrical Beam Tilt
0.0 Percent First Null Fill
0.0 Percent Second Null Fill

91.5 MHz

Element Spacing:
128.53 Inches

Power Gain is 5.247 In The Horizontal Plane(5.544 In The Max.)





ERI Facilities and Capabilities

Electronics Research, Inc. (ERI) is a manufacturer of radio and television antennas, transmission line, RF filters and combiners, broadcast towers, and RF accessory components for terrestrial radio and television broadcast stations. The company also has its own tower crews which erect broadcast towers and perform antenna and transmission line installations as well as tower maintenance and repairs. The company has an established business providing structural analysis and structural reinforcement business that is engaged in after sale and erection tower modifications required to support new antennas or to comply with changes in structural codes. The company has all of the capabilities needed to design, manufacture, and erect the new tower and to destack the current structure. This includes expertise in developing the rigging plans required and on staff project managers to guide the project from contract execution through final completion.

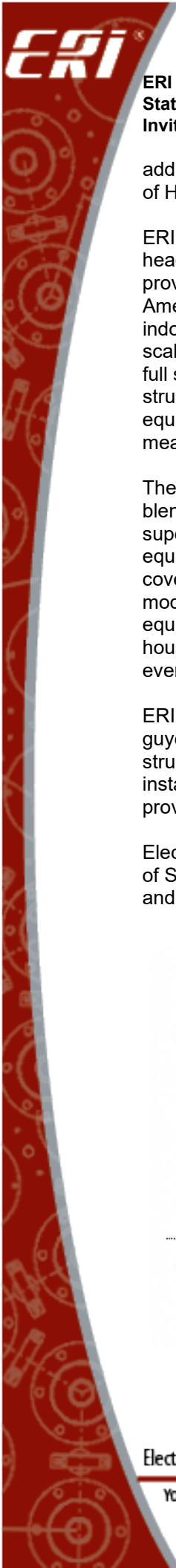


ERI's Headquarters and Manufacturing Facility.

Electronics Research, Inc. (ERI) is a company that has provided state-of-the-art telecommunications and broadcast products since 1943. ERI's products and services include television and FM antennas; RF filters and combiners; self-supporting and guyed towers; grounding and lightning protection products; installation, maintenance, structural analysis, and inspection services; rigid coaxial transmission line and UHF waveguide transmission line systems. ERI is also the Broadcast Master Distributor for CommScope HELIAX®, HELIAX accessories, pressurization products, and terrestrial microwave products.

ERI is the originator of many of the commonly used technologies for FM transmission today, including internally fed circularly polarized FM antennas, and temperature compensated RF filters. The company produces a broad array of single station and broadband FM antenna designs provide superior reliability and performance for any reasonable application. ERI also manufactures a wide array of filter products that can be configured to eliminate undesirable intermodulation products and are used as combining systems for master FM antennas.

In November 2003, ERI completed the acquisition of selected assets that comprised Andrew Corporation's (now CommScope) television broadcast antenna business. The acquisition included Andrew's MACXLine® and GUIDELine™ transmission line products and the company's complete line of television transmitting antennas and Andrew's television filter and RF components business which includes waveguide and coaxial switches, patch panels, directional couplers, and the other components required to produce a wide array of filter and combiner system for broadcast and scientific applications. In



Invitation to Bid 6405 OF FM Antenna and Installation for KRNE-FM, Merriman, Nebraska

addition, to purchasing these assets ERI also entered into an agreement to serve as a Master Distributor of HELIAX products and accessories to the broadcast market.

ERI has 165 employees, including two (2) registered professional engineers. ERI's corporate headquarters and main manufacturing facility is located in Chandler, Indiana. Our Midwest location provides the benefit of the most convenient, cost effective, product transportation to any part of North America. The ERI facility is located on 100 acres and includes a total of more than 250,000 square feet of indoor manufacturing space. Near the main factory complex is ERI's 50-acre test range, capable of full-scale antenna/tower pattern measurements. The company has decades of research and experience at full scale testing and the company's unique blend of individual educated and trained in antenna and structural design result in systems that offer superior performance and reliability. The test range is equipped with the latest in computerized test equipment and also has the latest computer software to measure and predict antenna performance and coverage.

The company has decades of research and experience at full scale testing and the company's unique blend of individuals educated and trained in antenna and structural design result in systems that offer superior performance and reliability. The test range is equipped with the latest in computerized test equipment and also has the latest computer software to measure and predict antenna performance and coverage. The company takes full advantage of innovative technology, which includes the latest computer modeling, design, and drafting tools; as well as the latest computer-controlled machining and milling equipment. ERI's main manufacturing facility also includes an advanced acid cleaning facility and an in-house silver-plating operation. This high degree of vertical integration allows control of product quality at every step during fabrication and final assembly.

ERI began manufacturing towers and providing structural analysis services in 1990. We manufacture guyed and self-supporting towers. ERI also has registered structural engineers on staff to provide structural analysis and reinforcement design services to tower owners. ERI has manufactured and installed towers ranging in height from less than 100-feet to 2000-feet. The structural division of ERI also provides a complete line of grounding and lightning protection products.

Electronics Research, Inc. is officially certified under the Steel Building Standard of the American Institute of Steel Construction (AISC). This designation reaffirms ERI's dedication to the quality-control process and our on-going effort to ensure our customers receive the highest quality structural systems.

The company maintains two fulltime tower crews each with a full set of equipment, trucks, and winches. All tower crews undergo rigorous safety training and the company's training regime is considered one of the industry's best. The company also maintains a separate crew that focuses and tower inspections. The company is compliant with all current OSHA regulations, maintains liability and workmen's compensation insurance at or above minimum requirement levels and can provide performance and payment bonds, for specific projects if required.

ERI has continuously served the broadcast industry with a dedicated team of engineering professionals, supported by experienced and meticulous craftsman for product fabrication and dedicated project management to insure on time and on budget project delivery, installation, and commissioning.



AMERICAN INSTITUTE OF STEEL CONSTRUCTION
CERTIFICATION PROGRAMS

PROUDLY RECOGNIZE THAT

Electronics Research, Inc.

MAINTAINS OPERATIONS LOCATED AT

7777 Gardner Road, Chandler, IN 47610 -9219

THAT SUCCESSFULLY MEET THE QUALITY CERTIFICATION REQUIREMENTS FOR

Building Fabricator

PRESIDENT

CERTIFICATION NUMBER

C-00018019

ISSUED

December 10, 2020

VALID THROUGH

March 31, 2022

ERI Current AISC Certificate

ERI Project Management Methodology for Tower and Antenna Orders and Installations

If awarded the contract to supply a new FM antenna, the project is assigned to one of ERI's Project Managers. Immediately following the order's execution and acceptance, it is entered into ERI's Enterprise Resource Planning System, and a Contract Review Meeting will be called to familiarize each operating department in the company with the scope of the project finally negotiated and awarded.

All projects are included in a regular weekly projects meeting, are on the agenda for a weekly production meeting, shipping meeting, and installation meeting. The Project Manager participates in each of these meetings and production and installation supervisors, and representatives of design engineering and drafting. This regular collaboration process ensures that the design is completed, material procured, and fabrication occurs as scheduled. It also ensures that issues during installation are minimized. The Project Manager communicates regularly with the customer's designated contact to resolve open issues and maintain an awareness of ERI's progress with the project.

ERI began manufacturing towers and providing structural analysis services in 1990. We make guyed and self-supporting towers and produce a complete line of tower accessories. ERI also has registered structural engineers on staff to provide structural analysis and reinforcement design services to tower owners. ERI has manufactured and installed towers ranging in height from less than 100-feet to 2000-feet. The structural division of ERI also provides a complete line of grounding and lightning protection products. ERI has a formal safety training program for all employees that climb towers and operate at tower sites. This training program includes programs that are conducted in-house and also include outside instructors. The program consists of annual retraining and touches on all aspects of operating safely at job sites and includes RF Awareness Training.

ERI is committed to protecting employees against safety and health hazards in the workplace. We are continually updating and modifying our safety program to make our company a safer place to work. Changes in our safety program are fully communicated and enforced. Upon the receipt of new information or changes in our safety policy, new processes, new procedures, new equipment, safety activities, hazards, and safe work practices, is relayed to employees in one or more of the following manners:

- One-on-one meetings with employees,
- Training sessions, including "toolbox meetings" or
- Postings on the bulletin boards or paycheck enclosures.

Employees always sign a short statement indicating that they have been informed of changes and agree to abide by them. Everyone has a responsibility towards fellow workers to watch for unsafe acts and take steps to bring the action to the Safety Coordinator's attention before an injury occurs. Weekly toolbox safety meetings are to be held, recorded, and signed by each crewmember.

Suggestions for safer operations are encouraged from all employees. Any suggestions are to be brought to the foreman or supervisor's attention, discussed on the job, and recorded and submitted to the office. Procedures for correcting unsafe or unhealthy conditions and work practices will consist of either one or a combination of the following:

- Hazard reduction or abatement,
- Safeguarding,
- Personal protective equipment, or
- Training.

The processes employed are part of ERI's standard operating procedures, and as such, they are followed as a matter of practice and habit. ERI processes and quality procedures are also certified by the American Institute of Steel Construction (AISC). This certification was recently audited and passed for recertification with no defects or corrections.

Proposal

Submitted to:

State Purchasing Bureau

State of Nebraska
1526 K Street, Suite 130
Lincoln, NE 68508

Attn: Julie Dabydeen

by:

Electronics Research, Inc.

Bill Harland
Vice President of Marketing

Phone: +1 (812) 925-6000, Ext. 214

Fax: +1 (812) 925-4030

bharland@eriinc.com

This document includes pages 1 of 13 and is governed by the terms and conditions contained herein. Upon customer acceptance, order is subject to final review and written acceptance by ERI at our main business office. Unless otherwise stated in the body of this quotation, freight charges are not included and will be added to the final invoice. Also, unless listed separately in the body of this quotation, prices do not include any state, local, or other taxes or duties.

If any item in ERI's Standard Terms and Conditions of Sale is in conflict with Nebraska Purchasing Statutes, Rules, and/or Regulations it will be waived.

Proposal Number: 20210313-461

Date: April 2, 2021
Valid Through: June 2, 2021
FOB Destination
Reference: ITB 6504 OF KRNE-FM Antenna and Installation

Payment Terms: Payment due at completion of project.

Please **complete** the Purchaser's Acceptance block, **scan** this document along with your deposit check and **e-mail** to: ahand@eriinc.com or **FAX** to: 812-925-4030. Please **remit** down payment to the address below, attn: Accounts Receivable.

Purchaser's Acceptance:

Please accept our order for the products and services contained in this proposal.

Signature: _____

Name: _____

Title: _____

P.O. Number: _____



Item	Qty	Part #	Description	Unit Price	Extended
Line 1			Cost of Removal of Old Antenna.	\$19,752.50	\$19,752.50
Line 2			Cost of New FM Antenna	\$58,183.00	\$58,183.00
Line 3			Cost of Installation of New Antenna	\$26,002.50	\$26,002.50
Line 4			Estimated Shipping	\$3,410.00	\$3,410.00
Total Bid:					\$107,348.00

Detail of Items to be Provided

001 1 SHPX-10AC-SP ROTOTILLER® SHPX Series Circularly Polarized FM Antenna. Full Wave Spaced Elements, 3-1/8-inch Interbay Line, 3-1/8-inch Element Stem, Female 50 Ohm Input 3-1/8-inch, Input Feed Center, Input Power Rating 39 kW. Channel / Frequency: 218 / 91.5 MHz
 Numeric Gain: 5.544
 First Null Fill: None
 Second Null Fill: None
 Electrical Beam Tilt: 0.75 degrees
 Brackets: Pole or Leg Mount
 Pole or Leg OD: 4 (inches)
 Tower Face Width: 72 (inches)
 Includes 10-foot, input matching section to match input location of currently installed FM antenna. Electrical beam tilt, first null fill, and second null fill are additional cost options available for center fed FM antennas. If this antennas includes electrical beam tilt and/or null fill these are listed and priced as separate line items in this proposal to ensure that they are included on the antenna factory work order.
 Standard antenna pricing includes antenna mounts appropriate for mounting on a tower leg or on a pole up to 15 inches in diameter or for face mounting on non-tapered tower section 42 inches or less (from center to center of tower legs). Optional fiberglass or steel anti-rotation brackets are available for tower sections 42 inches or smaller. Steel anti-rotation brackets are available for tower sections larger than 42 inches. Special order fiberglass anti-rotation brackets are available for tower sizes larger than 42 inches. Anti-rotation brackets are required (one per bay) for leg mounted medium or high-power antennas if the tower leg diameter is 3 inches (76 mm) or less or 5 inches (127 mm) or less for antennas equipped with radomes.
 Standard mounts and brackets assume that the tower face is unobstructed. If obstructions are present and prevent standard mounts or brackets from being used, custom mounts and/or brackets may be required at additional cost.

7777 Gardner Road +1 812 925-6000 (tel) Sales@eriinc.com
 Chandler, IN 47610-9219 +1 812 925-4030 (fax) CustomerSupport@eriinc.com
 USA 877 ERI-LINE (toll-free) www.eriinc.com



Item	Qty	Part #	Description	Unit Price	Extended
			Custom mounts and brackets for non-uniform cross section towers available upon special request. Tower details must be provided to ERI for all custom/special order brackets or mounts. Please contact ERI for all special order requests		
002	10	RAD-RT	Radomes (per bay) for SHPX, SHP, MPX, MP, LPX, and LP Series FM Antennas.		
003	1	BT	Beam tilt (per system) (center fed FM antennas only)		
004	10	ARB-84	Anti-rotation brackets, STEEL, for tower faces up to 84-inches center to center. One required per bay.		
005	1	ACX350-20	3-1/8-inch, 50 ohm standard inner connector.		
006	1	RLA300-21	3-1/8-inch hardware kit, includes 'O' ring, silicone lubricant, nuts, bolts, and lock washers for one flange joint.		
007	1	Radio Services	<p>FM Installation</p> <p>Mobilize to site, inventory materials and rig tower. This tower is a 1022' AGL guyed tower owned by the Nebraska Educational Telecommunications Commission. ASRN 1029932.</p> <p>Remove an existing 12 bay Dielectric DCR-C12CHT75 antenna with radomes 879' COR. Install a new 10 bay ERI SHPX-10AC-SP antenna with radomes at 879' COR.</p> <p>Hook the antenna to the existing 3 1/8" rigid line. Assist with line sweep and antenna tune. Provide climbers only. No tuning equipment or materials. Dispose of old antenna and site trash.</p> <p>Clean Site, Derig Demobilize</p> <p>All work is to be performed unrestricted during daylight hours. (Weekend, holiday, or evening/night work, when requested by customer will be billed an additional charge of 1.5 times standard rate.) Quote assumes work to be done under one mobilization. Quote subject to crew availability.</p>		
008	1	RST-001	<p>FM Antenna Tune ERI Factory Field Technician.</p> <p>One (1) ERI Technician to field match FM antenna after installation. Price includes travel, local living expense, and daily field service rate for one (1) day on site.</p> <p>ERI Field service price includes a single (per project) mobilization and indicated number of days on site, for one person. Additional days if required will be charged for at the rate of \$2,150.00 per day.</p> <p>Price includes test equipment usage and tuning slugs.</p>		

7777 Gardner Road
 Chandler, IN 47610-9219
 USA

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 +1 812 925-4030 (fax)
 877 ERI-LINE (toll-free)

Sales@erinc.com
 CustomerSupport@erinc.com
 www.erinc.com

Item	Qty	Part #	Description	Unit Price	Extended
			Field service prices are net to ERI and not discountable. Customer to provide tower crew to assist antenna field matching. If ERI is performing the antenna installation that crew will assist the ERI Field Service technician. Will include a written report following the completion of services. Price valid for the location within the contiguous forty-eight (48) United States only. Contact ERI for pricing in other locations.		
009	1	ZFCH	Estimated Material freight to KRNE-TV and FM Transmitter Site: 88626 State Hwy. 61 Tim Hanson, Site Manager +1 (402) 822-0408		



Purchaser Information Page

Mail to Address:

Name: Julie Dabydeen
Company: State Purchasing Bureau
Company 2: State of Nebraska

Address: 1526 K Street, Suite 130
City, ST, ZIP: Lincoln, NE, 68508
Country:
Phone: +1 (402) 471-6500
FAX:
E-Mail: as.materielpurchasing@nebraska.gov

Submit to Address:

Name: Julie Dabydeen
Company: State Purchasing Bureau
Company 2: State of Nebraska

Address: 1526 K Street, Suite 130
City, ST, ZIP: Lincoln, NE, 68508
Country:
Phone: +1 (402) 471-6500
FAX:
E-Mail: as.materielpurchasing@nebraska.gov

Ship Via:

ERI selected method, unless otherwise specified.

Final CP Received? Not Required

Comments:

Ship to Address:

Name: Tim Hanson, Site Manager
Company: KRNE TV/FM Transmitter Site
Company 2: Educational Telecommunications Commission

Address: 88626 State Hwy. 61
City, ST, ZIP: Merriman, NE, 69218
Country:
Phone: +1 (402) 822-0408
FAX:
E-Mail:

Consultant Address:

Name:
Company:

Address:
City, ST, ZIP:
Country:
Phone:
FAX:
E-Mail:

Special Shipping Method:

Common Carrier. Fuel surcharge may apply.



1. Applicable to All Orders

1.1 Acceptance of Proposal: When the Proposal is signed by Buyer, returned to Electronics Research, Inc. (hereinafter called "ERI"), and accepted by ERI at its offices in Chandler, Indiana, USA, the Proposal shall become a binding agreement for the purchase by buyer from ERI of the Products and/or Services described therein, upon the terms specified, including these Terms and Conditions of Sale, attached to the Proposal. Refundable deposits are charged for some skids and large size cable reels. All orders are subject to a minimum charge of \$50.00 net.

1.2 Acknowledgement of Terms: By signing the Proposal, Buyer represents and acknowledges that it has fully read, understands, and accepts the terms of the Proposal, including these "Terms and Conditions of Sale" included therein, that the Proposal contains the complete and final agreement of Buyer and ERI with respect to the Products and/or Services described therein; that all other agreements, representations, and warranties, whether oral or in writing, made prior to or at the time of the signing of the Proposal, are merged and replaced therein; and that no change or addition to the Proposal shall be valid and enforceable unless made in writing and signed by an authorized representative of ERI.

1.3 Buyer's Terms and Conditions: ERI desires to provide its customers with prompt and efficient service. However, to negotiate individually the terms and conditions of each sales contract would substantially impair ERI's ability to provide such service. Accordingly, Products and Services furnished by ERI are sold only on the terms and conditions stated herein, any terms or conditions on Buyer's order to the contrary notwithstanding. ERI's performance of any contract is expressly made conditional on Buyer's agreement to ERI's Terms and Conditions of Sale unless otherwise specifically agreed to, in writing, by ERI. In the absence of such agreement, commencement of performance and/or delivery shall be for Buyer's convenience only and shall not be deemed or construed to be acceptance of Buyer's terms and conditions. If a contract is not earlier formed by mutual agreement, in writing, acceptance of any Product or Service shall be deemed acceptance of the terms and conditions stated herein. In the case of a conflict between the terms and conditions stated herein and those appearing on the face of this Proposal, the latter shall control. All contracts for the sale of Products and/or Services shall be construed under and governed by the laws of the State of Indiana, the location of ERI's primary manufacturing facilities and its corporate headquarters.

1.4 Conditions of Proposal: ERI's Proposal is subject to the following:

1.4.1 The Buyer warrants that all information supplied by it to ERI for the preparation by ERI of the Proposal, including oral and written correspondence, reports, plans, and specifications are adequate, accurate, workable, and practicable of design, and, if the supplied information is followed, a sufficient and satisfactory result will be achieved. Buyer shall be responsible for all costs incurred by ERI by reason of any inaccurate or incomplete information supplied by Buyer.

1.4.2 Unless otherwise stated in the Proposal, the Buyer is responsible for obtaining any necessary permits and/or approvals (FCC, FAA, local, etc.) needed to install and use the Products included in the Proposal. If the Proposal includes Installation Services, the necessary permits must be obtained prior to mobilization.

1.4.3 UNLESS OTHERWISE SPECIFIED, IN WRITING, ALL PROPOSALS ARE FIRM FOR, AND EXPIRE, THIRTY (30) DAYS AFTER DATE THEREOF AND CONSTITUTE OFFERS, provided, however, that budgetary Proposals and estimates are for preliminary information only and shall neither constitute offers, nor impose any responsibility or liability upon ERI.

1.4.4 Unless otherwise stated in writing by ERI in the Proposal, all prices in a Proposal shall be exclusive of transportation, insurance, taxes (including, without limitation, any sales, use or similar tax, and any tax levied on or assessed to ERI after Product delivery by reason of ERI's security interest in Products), license fees, customs fees, duties and other charges related thereto, and Buyer shall report and pay any and all such shipping charges, premiums, taxes, fees, duties and other charges related thereto, and shall hold ERI harmless there from, provided, however, that if ERI, in its sole discretion, chooses to make any such payment, Buyer shall reimburse ERI in full upon demand.

1.4.5 Stenographical, typographical and clerical errors contained in the Proposal are subject to correction.

1.4.6 Prices set forth in a Proposal are for Products and/or Services only and do not include technical data, proprietary rights of any kind, patent rights, qualification, environmental or other than ERI's standard product performance tests, and other than ERI's normal domestic commercial packaging, unless expressly agreed to in writing by ERI.

1.4.7 Published weights and dimensions are approximate only. Certified dimension drawings can be obtained upon request. Manuals, programs, listings, drawings, or other documentation required hereunder must be referenced specifically.

1.5 Terms of Payment: Unless otherwise stated in the Proposal, payment is due upon delivery. All payments for Products released and shipped on approved credit accounts shall be due in upon receipt of invoice therefore. Past due balances shall be subject to a late charge of 1.8% per month. Partial shipments will be billed as made and payments therefore are subject to the above terms. Payment shall not be withheld for delay in delivery of required documentation unless a separate price is stated therefore, and then only to the extent of the price stated for such undelivered documentation. ERI may cancel or delay delivery of Products in the event Buyer fails to make prompt payment therefore or in the event of an arrearage in Buyer's account with ERI.

1.6 Performance: ERI will make all reasonable effort to observe its dates indicated for delivery or other performance. However, ERI shall not be liable in any way because of any delay in performance hereunder due to acceptance of prior orders; technical difficulties; strike; lockout; riot; war; fire; act of God; accident; failure or breakdown of components necessary to complete an order; subcontractor, supplier or Buyer caused delays; inability to obtain or constrain substantial rises in the price of labor, materials or manufacturing facilities; curtailment of or failure to obtain sufficient electrical or other energy supplies; or compliance with any law, or regulation or order, whether valid or invalid, of any cognizant governmental body or any instrumentality thereof now existing or hereafter created; or due to any unforeseen circumstances or causes beyond ERI's control, provided such delay is neither material nor indefinite. ERI's performance shall be deemed suspended during and extended for such time as it is so delayed, and thereafter Buyer shall accept performance hereunder. Delay in performance shall not be considered material or indefinite unless it exceeds or is reasonably estimated by ERI to exceed a period of six (6) months. ERI reserves the right, in its sole discretion, to allocate inventories and current production and substitute suitable materials when, in its opinion, such allocation or substitution is necessary due to such circumstances or causes in the interest of conservation of scarce materials and efficient utilization of high value parts and components. ERI's products may contain remanufactured parts and components. Such parts and components are covered by the same warranty and are subject to the same high standards of quality control applied to other parts and components. No penalty clause for delay in performance contained in any Buyer-originated documents of any kind shall be effective. As used herein, "performance" shall include, without limitation, fabrication, shipment, delivery, assembly, installation, testing and warranty repair or replacement, as applicable.

1.7 Change Orders: Buyer change orders must be in writing and no change shall be made pursuant to this clause unless agreed to in writing and signed by duly authorized representatives of ERI and Buyer. If any such change causes an increase or decrease in the cost or the time required for the performance of any part of the work, an equitable adjustment shall be made in the contract price and schedule. ERI shall have no obligation to commence any extra or changed work without written agreement as to adjustments to contract price and delivery schedules affected thereby.

1.8 Assignments and Terminations: Any assignment by Buyer of any contract created by the Proposal without the express written consent of ERI is void. No order may be terminated by Buyer except by mutual agreement in writing. Terminations by mutual agreement are subject to the following conditions: (a) Buyer will pay, at applicable contract prices, for all Products which are completely manufactured and allocable to Buyer at the time of ERI's receipt of a request for mutual termination; (b) Buyer will pay all costs, direct and indirect, which have been incurred by ERI with regard to Products which have not been completely manufactured at the time of ERI's receipt of a request for mutual termination, plus a pro rata portion of normal profit on the contract; (c) Buyer will pay a termination charge on all other Products affected by the termination. (d) Orders for standard catalog products may be canceled prior shipment, however any order that has been cut, filled or packaged prior to Seller's receipt of cancellation notice shall be subject to a 20% re-stocking charge. (e) Orders for non-standard products or specially manufactured products may be canceled prior to the start of manufacture provided Buyer reimburses ERI for any actual costs incurred on the order prior to the effective cancellation date. After manufacture commences, orders for non-standard products or specially manufactured products may not be canceled. In the event Buyer terminates such orders, Buyer shall be liable to ERI for termination charges, including, but not limited to, reasonable profits. ERI's normal accounting practices shall be used to determine costs and other charges. To reduce termination charges, ERI will divert completed parts, material or work in process from terminated contracts to other Buyers whenever, in ERI's sole discretion, it is practicable to do so.

1.9 Damage and Liability: ERI'S AGGREGATE LIABILITY IN DAMAGES OR OTHERWISE SHALL NOT EXCEED THE PAYMENT, IF ANY, RECEIVED BY ERI FOR THE UNIT OF PRODUCT OR SERVICE FURNISHED OR TO BE FURNISHED, AS THE CASE MAY BE, WHICH IS THE SUBJECT OF CLAIM OR DISPUTE. IN NO EVENT SHALL ERI BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, OR SPECIAL DAMAGES, HOWSOEVER CAUSED. Liability to third parties for bodily injury, including death, resulting from ERI's performance shall be determined in accordance with applicable law and shall not be affected by the liability limitations stated above in this paragraph.

1.10 Disputes: All disputes under any contract concerning Products and/or Services not otherwise resolved between ERI and Buyer shall be resolved in a court of competent jurisdiction in the County of Warrick in the State of Indiana or the United States District Court for the Southern District of Indiana, Evansville Division, and in no other place. Provided, that in ERI's sole discretion, such action may be heard in some other place designated by ERI if necessary to acquire jurisdiction over third persons so that the dispute can be resolved in one action. Buyer hereby consents to the jurisdiction of such court or courts and agrees to appear in any such action upon written notice thereof. No action, regardless of form, arising out of, or in any way connected with, the Products or Services furnished by ERI, may be brought by Buyer more than one (1) year after the cause of action has occurred. If any part, provision or clause of these Terms and Conditions of sale, or the application thereof to any person or circumstances, is held invalid, void or unenforceable, such holding shall not affect and shall leave valid all other parts, provisions, clauses or applications of these Terms and Conditions remaining, and to this end these Terms and Conditions shall be treated as severable.

1.11 General Conditions:

1.11.1 No delay or failure on the part of ERI in exercising any right or remedy under any contract resulting from, and/or partial or single exercise thereof, shall constitute a waiver of such right or any other remedy. ERI's rights and remedies under any contract resulting here from are cumulative and not alternative.

1.11.2 If any term of any contract resulting here from or the application thereof shall be illegal, such illegality shall not affect any other term or condition thereof, and such shall continue in full force and effect.

1.11.3 Any contract resulting here from shall be binding upon the heirs, personal representative, successors and permitted assigns of the parties.

2. Applicable to Orders for Products

2.1 Transportation and Risk of Loss: Transportation will normally follow Buyer's shipping instructions, but ERI reserves the right to ship Products freight collect and to select the means of transportation and routing when Buyer's instructions are deemed unsuitable in ERI's judgment. Unless

otherwise advised, ERI may, but shall be under no obligation to, insure to full value of the Products or declare full value thereof to the transportation company at the time of delivery, and all freight and insurance costs shall be for Buyer's account. Risk of loss and/or damage shall pass to Buyer upon delivery of the Products to the transportation company at the FOB point whether or not installation is provided by or under supervision of ERI. Confiscation or destruction of, or damage to Products shall not release, reduce or in any way affect the liability of Buyer therefore. Notwithstanding any defect or nonconformity, or any other matter, such risk of loss and/or damage shall remain in Buyer until the Products are returned at Buyer's expense to such place as ERI may designate, in writing. Buyer, at its expense, shall fully insure Products against all loss and/or damage until ERI has been paid in full or the Products have been returned for whatever reason to ERI. All Products must be inspected upon receipt and claims should be filed with the transportation company when there is evidence of shipping damage, either concealed or external. As used in the clauses appearing herein or attached hereto, "delivery" shall occur when the Product is delivered at the FOB point which shall be the point of manufacture or such other place as ERI shall specify, in writing, notwithstanding installation by or under supervision of ERI.

2.2 Acceptance: The shipment by ERI of a Product to the Buyer shall constitute acceptance of that Product by Buyer, unless notice of defect or nonconformity is received by ERI within thirty (30) days of receipt of the Product at Buyer's designated receiving address, provided, that for Products for which ERI agrees, in writing, to perform acceptance testing after installation, the completion of ERI's applicable acceptance test, or execution of ERI's acceptance form by Buyer, shall constitute acceptance of the Product by Buyer. Notwithstanding the foregoing, any use of a Product by Buyer, its agents, employees, contractors or licensees, for any purpose, after receipt thereof, shall constitute acceptance of that Product by Buyer. ERI may repair or, at its option, replace defective or nonconforming parts after receipt of notice of defect or nonconformity.

2.3 Shipment Delays/Billing in Place: Upon completion of Buyer's order, any delay in shipment attributable to Buyer, including, but not limited to, Buyer's request to defer the delivery date, shall cause the following to occur: Thirty (30) days after the original shipment date, a storage charge of 1½% of the invoice price per month will be billed to Buyer and title to the shipment will automatically pass to Buyer. ERI will invoice Buyer for completed goods and Buyer will pay in accordance with the terms of the original sale, as the goods will be deemed to have shipped in place. ERI will insure against risk of loss until physical shipment of the goods to a common carrier. A tower shipment date is contingent upon receipt by ERI of all necessary site specific information. This information must be included with the signed Proposal and tower order. Depending upon the nature of the project, site specific information may include, but is not limited to: a site survey showing plot dimensions, topography, and possible obstructions; a geotechnical report; the desired tower orientation; the desired antenna orientation; and a complete shipping address.

2.4 Returns: Standard catalog products may be returned for credit provided such products are returned within six (6) months after the original shipment date. The minimum value accepted for return from each purchase order is \$50.00. The amount of credit issued for any returned product shall be determined solely by ERI based on the resalable condition of the product. Non-standard products, including products specially manufactured in accordance with Buyer's specifications or tuned to one or more specified operating frequencies may not be returned for credit. Buyer shall obtain ERI's written return goods authorization prior to returning any Product for credit.

2.5 Service Warning: The Products may be dangerous if improperly installed, handled, serviced, refurbished, or reinforced. In the event that repair, maintenance or servicing need to be performed on the Products, Buyer should contact ERI immediately. ERI shall not be liable for any damages or injuries occurring in connection with maintenance, servicing or repair work on the Products done by persons other than ERI or its duly authorized representatives.

2.6 Installation: Unless this Proposal includes installation services, Buyer is responsible for installation of the Products, including preparation and maintenance of all Products, materials, or services necessary for the operation of the Products not provided by ERI. All installations should be performed by qualified tower climbers and electricians. All OSHA, state and local safety regulations should be observed. Any photos or drawings in product literature, installation manuals, or drawings are used to illustrate a specific point and are not intended to supersede any OSHA, state or local safety regulations.

2.7 Patents and Other Intellectual Property Rights: ERI will, at its own expense and as set forth herein, defend any action brought against Buyer in respect to any claim that the design or manufacture of any Product in ERI's commercial line of Products or manufactured to specifications set by ERI and furnished hereunder, constitutes an infringement of any patents or other intellectual property rights of the United States. Subject to the provisions in the DAMAGES AND LIABILITY section hereof, ERI will pay all damages and costs either awarded in a suit or paid, in ERI's sole discretion, by way of settlement, which are based on such claim of infringement, provided, that Buyer promptly notifies ERI, in writing, of such claim or infringement and gives ERI full authority, information and assistance in settling or defending such claim, or ERI will, in its sole discretion and at its own expense, either procure a license which will protect Buyer against such claim without cost to Buyer, replace said Product with a non-infringing Product or remove said Product and refund an equitable portion of the price paid by the Buyer to ERI for said Product. ERI shall have no liability whatsoever hereunder with respect to any claims settled by Buyer without ERI's prior written consent. ERI EXPRESSLY EXCLUDES from any liability hereunder, and Buyer shall hold ERI harmless from and against, any expense, loss, costs, damages or liability resulting from claimed infringement of patents, trademarks, copyrights or other intellectual property rights: (a) arising from a use of or a combination of a Product with other equipment, processes, programming applications or materials not furnished under the Proposal; (b) based on items made with the Products furnished under the Proposal; (c) arising out of compliance by ERI with Buyer's designs, specifications or instructions; and/or (d) arising from use or manufacture by anyone of inventions in connection with Products or services sold, used or intended for sale or use in performing contracts with the United States or related subcontracts. The foregoing states ERI's entire liability for any claim based upon or related to any alleged Infringement of any patent or other intellectual property rights.

2.8 Standard Two (2) Year Product Limited Warranty: Electronics Research, Inc. (ERI) warrants to the original Buyer that its Product is free from defects in material or workmanship

2.8.1 existing at the time of shipment from the factory or

2.8.2 that develop under normal use in a properly installed and maintained system for a period of twenty-four (24) months following the date of shipment, ex-works.

2.8.3 ERI Exclusions: Expressly excluded from the terms of this limited warranty are defects caused by:

2.8.3.1 faulty installation;

2.8.3.2 all minor system leakage ("leakage" is defined in paragraph 2.8.15), below);

2.8.3.3 equipment leaks and detuning if caused by rough handling or installation;

2.8.3.4 lack of proper inspection and maintenance;

2.8.3.5 unusually severe weather, lightning, icing, acts of God; such events require inspection for, and correction of, such damage;

2.8.3.6 water intrusion, foreign materials in the system;

2.8.3.7 vandalism, physical abuse, tampering, or unauthorized disassembly, repair or modification without explicit written approval of ERI;

2.8.3.8 operation not in accordance with published ratings, specifications, or instructions.

2.8.4 ERI Products are delivered Ex-Works. Unless ERI supervises the transportation, delivery, and/or installation of the product, ERI is not responsible for damage that may result from incorrect or improper transportation, storage, handling or installation of Products.

2.8.5 Buyer shall regularly inspect and maintain all ERI manufactured parts and Resale parts in accordance with ERI's and/or manufacturer's inspection and maintenance guidelines and in accordance with all regulations and recommendations of any government agency or body and in accordance with generally accepted industry maintenance standards. An initial inspection shall be conducted promptly after installation to verify that the installation is properly performed in accordance with ERI's and/or the manufacturer's installation instructions and procedures. Such inspections shall be performed at Buyer's expense by qualified personnel, and inspection summary report(s) shall be prepared immediately upon inspection completion. Reports of initial inspections shall be submitted to ERI Customer Service. Buyer shall forever protect, defend, indemnify, and hold ERI free and harmless against all claims, demands, liabilities, cause of action (including, without limitation, legal costs and expenses and reasonable attorney's fees) arising out of, or relating to Buyer's failure to completely discharge its obligations hereunder.

2.8.6 Buyer shall follow promptly all recommendations from qualified inspectors and/or ERI regarding the maintenance of all ERI manufactured and Resale structural Products.

2.8.7 Upon making a warranty claim, make copies of all preceding inspection reports and dispositions available to ERI for review.

2.8.8 Any defective warranted component of an ERI product will be repaired or replaced at the place of manufacture, ex-works, without charge if all defective components are returned by the Buyer to ERI, and ERI inspection discloses that such defects are as reported and are not the result of ERI Exclusions.

2.8.9 Under some circumstances, continuity of service may necessitate immediate shipment of repair parts before ERI inspection of defective parts. Under these conditions, ERI requires that Buyer place an order for replacement parts and will require that all defective parts be packaged and returned for factory inspection and determination of warranty status. If failure is determined to be covered by this warranty, credit will be issued for parts ordered by Buyer to expedite replacement.

2.8.10 Other than the replacement of defective Products or components ex-works, ERI shall not be responsible for any costs or expenses incurred by the Buyer arising from the identification, removal, and replacement of defective products.

2.8.11 ERI, at its sole discretion, may choose to supply warranty parts for repairs on site. In such cases, materials shall be shipped free of additional charge to the site. Losses arising from repair or replacement activities, including those for delays, rigging, and additional installation or maintenance crew time, are not covered under this warranty.

2.8.12 Warranty repairs/replacements, whether at factory or on site, will fulfill the term of the original warranty. No extension of the original warranty term will be allowed.

2.8.13 "Resale equipment/parts/components" are defined as equipment, parts, or components purchased from another manufacturer or supplier and resold by ERI, shall only carry such manufacturer's or supplier's standard warranty in effect at the time of Product shipment from the supplier.

2.8.14 Antenna warranties shall be void if Buyer does not (i) purge and pressurize the antenna system with dry nitrogen or dry air furnished by the Buyer immediately following the installation of the system to initially check for installation leaks and (ii) maintain the antenna under a positive pressure of approximately 2 to 5 pounds per square inch at all times, including prior to installation, using either dry nitrogen or dry air. This warranty is void in the event that the system is pressurized above ERI's published instructions.

2.8.15 Minor leakage in a large system can be difficult if not impossible to detect, especially since temperature variations can mask their extent. ERI recommends the installation of dehydration equipment in any significant pressurized system. Minor leakage is beneficial because it causes occasional cycling the dehydration equipment and provides a fresh purge to the system. ERI regards any leak resulting in a system pressure drop of 0.5 PSI per day or less, temperature compensated, as an acceptable leak rate not actionable under these warranty terms.

2.8.16 For the scope and purposes of this warranty with regard to ERI manufactured structural towers/parts and resale structural parts, the phrase "Current Standard" is defined as the most current revision of ANSI/TIA-222 Standard including, but not limited to, all relevant appendices and annexes thereof, and all relevant documents incorporated by reference there from. This warranty shall be void if the Buyer does not:

2.8.16.1 follow all relevant and applicable directives as set forth in the Current Standard;

2.8.16.2 consult and obtain explicit approval from ERI regarding the qualifications of the tower crew chosen to implement/install any structural repairs and/or modifications;

2.8.16.3 consult and obtain explicit approval from ERI prior to implementing changes to the structure serviceability requirements, structure classification, and/or tower appurtenance loading (such as antennas, transmission lines, mounts, ice shields, platforms, ladders, etc.) which varies significantly from the original design parameters as determined by ERI.

2.8.17 Adequate VSWR monitoring and protection equipment must be installed and properly maintained in the transmission system to prevent system damage from ice, lightning, and other natural phenomena. Failure to properly install, maintain, or observe the warnings of the VSWR protection equipment voids this warranty, and subsequent damage caused by such failure is not covered under this warranty. ERI recommends purchase of an ERI manufactured or approved VSWR protection unit at time of antenna purchase.

2.8.18 If warranty site service is requested, it will be provided pursuant to a Buyer issued purchase order. If defects are not found to be the result of a valid warranty claim an invoice for such service will be issued at prevailing rates.

2.8.19 Notification of warranty claim must be provided to ERI within 30 days of the triggering event or detection of the failure.

2.8.20 In no case may the value of the warranty claim exceed the purchase price of the Product.

2.8.21 Warranty services will be provided, and valid claims will be honored as long as Buyer is current on all accounts due and owing to ERI.

2.8.22 THE FOREGOING WARRANTY IS AND SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR APPLICATION OR PURPOSE. THERE ARE NO WARRANTIES, REPRESENTATIONS OF FACT, OR PROMISES WITH RESPECT TO SIGNAL COVERAGE OR STRENGTH.

2.8.23 UNDER NO CIRCUMSTANCES SHALL ERI BE OBLIGATED OR LIABLE FOR SPECIAL INCIDENTAL, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES, LOSSES, OR EXPENSES IN CONNECTION WITH OR BY REASON OF THE FOREGOING WARRANTY OR BY REASON OF SOME OTHER TYPE OF EXPRESS OR IMPLIED WARRANTY FOUND TO EXIST NOTWITHSTANDING THE FOREGOING DISCLAIMERS.

2.9 Warranty Replacement and Adjustment: All claims under warranty must be made promptly after occurrence of circumstances giving rise thereto and must be received within the applicable warranty period by ERI or its authorized representative. Such claims should include the Product type and serial numbers and a full description of the circumstances giving rise to the claim. Before any Products are returned for repair and/or adjustment, written authorization from ERI or its authorized representative for the return and instructions as to how and where such Products should be shipped must be obtained. Any Product returned to ERI for examination shall be sent prepaid via the means of transportation indicated as acceptable by ERI. ERI reserves the right to reject any warranty claim not promptly reported and any warranty claim on any item that has been altered or has been shipped by non acceptable means of transportation. When any Product is returned for examination and inspection, or for any other reason Buyer shall be responsible for all damage resulting from improper packing or handling, and for loss in transit notwithstanding any defect or non conformity in the Product. In all cases ERI has sole responsibility for determining the cause and nature of failure, and ERI's determination with regard thereto shall be final. If it is found that ERI's Product has been returned without cause and is still serviceable, Buyer will be notified and the Product returned at its expense; in addition, a charge for testing and examination may, in ERI's sole discretion, be made on Products so returned.

2.10 General Conditions:

2.10.1 ERI reserves the right to change or modify its design and construction of the Products and/or to substitute materials equal to or superior to or functional equivalents to that originally specified herein provided, however, that any substitution, change or modification shall not materially and adversely affect Buyer's ability to use the Products.

2.10.2 ERI reserves the right to make changes in design and construction of the Products it manufactures for others and to make and/or add improvements in such Products at any time without incurring any obligation to install the same in the products sold herein.

2.10.3 The Buyer shall at its expense engage any qualified engineer necessary to approve ERI's design, obtain building permits, and insure structural integrity of existing structure considering any ERI addition or appurtenance unless otherwise specified in the Proposal. ERI shall furnish construction and installation drawings and engineering data for its Products upon request.

2.10.4 The Proposal is submitted in accordance with the ANSI/EIA/TIA-222 standard in effect as of the date of the Proposal, unless otherwise stated in the body of the Proposal. This standard is intended to set the minimum criteria for the structural design, fabrication and construction of antennas and antenna support structures. It is the responsibility of the Buyer to provide site specific data and design requirements and any requirements differing from those contained in this standard to ERI prior to accepting the Proposal. Please refer to the applicable edition of the ANSI/EIA/TIA-222 standard for further information.

2.10.5 Buyer is responsible for any and all disposal and recycling of Products, packaging, reels, shipping crates, and other items associated with the fulfillment of order, as well as for compliance with any mandated "green" initiatives.

2.10.6 If field services are provided Buyer may request to be named as an additional insured on ERI's Liability policy and be provided a Certificate of Insurance naming Buyer as a certificate holder.

3. Special Terms and Conditions Applied to Field and Installation Services

3.1 If ERI is not the current Engineer of Record (EOR) for the supporting structure, it shall be the Purchaser's responsibility to engage the current structure's EOR or a Qualified Engineer to review all Construction Class IV work activities to assess construction loads at rigging attachment points and/or work activities impacting the strength and stability of the supporting tower such as structural member replacements in direct accordance with the current ANSI/TIA-322, Loading, Analysis, and Design Criteria Related to the Installation, Alteration and Maintenance of Communication Structures. ERI shall retain the services of a Supervising Engineer to develop construction loads which will be provided to the Purchaser, or their named representative, along with specific rigging attachment points being made to the supporting structure no less than 2 weeks prior to planned Construction Class IV work activities to allow time for the EOR/Qualified Engineer review. Any work delays occurring from the Purchaser's engineering review may result in delayed mobilizations and/or change order fees for downtime. Please note, if the Purchaser is unable or unwilling to attain the required engineering services to facilitate the construction review in accordance with current industry standards, any and all fees incurred by ERI for performing additional engineering assessments including any potential field inspections shall be submitted to the Purchaser as part of a change order.

3.2 The Proposal is based on work carried out in one mobilization and continuous operation without interruption or delays due to Buyer supplied missing materials, such as, but not limited to antennas, transmission lines, transmission line hangers, installation drawings, tower components, or electrical power. All material necessary for completing installation to be furnished by Buyer, must be on the tower site prior to starting of installation or scheduled in such a manner as to avoid delaying crew. Proposal is also based upon the following conditions:

3.2.1 Painting of the tower components (i.e. antenna or line) is not included in Proposal unless specified in Proposal.

3.2.2 Antenna feed line system will end just inside the transmitter facility (max 20'). Purchaser to have existing port for the line to enter. ERI is not responsible for installation inside the transmitter facility, such as, but not limited to inside transmission line runs, hangers, wall feed through plates, etc. ERI can perform these tasks at our standard daily rate if so desired.

3.2.3 This Proposal is subject to mutually negotiated scheduling and availability of resources and personnel. In case of significant delays beyond the control of ERI that cause ERI increased costs due to the rescheduling of crews, additional charges may apply. For this purpose, a delay shall not be considered significant unless it exceeds a period of ninety (90) days.

3.2.4 All work is to be performed unrestricted during daylight hours. (Weekend, holiday, or evening/ night work, when requested by customer will be billed an additional charge of 1.5 times standard rate.)

3.2.5 No guy wires interlaced or overhead power lines in working areas.

3.2.6 No tower, antenna, feed line, and/or bracket modifications required unless specified in Proposal.

3.2.7 No onsite transmission line field cuts required. If necessary, additional charges will be billed.

3.2.8 Antennas are assumed to have no more than 2 parasitic directors per bay. Each additional will be billed as necessary.

3.2.9 Taxes, bond or permit costs/fees have been paid by buyer/customer.

3.2.10 All antennas to be non-radiating or reduced to a safe power level while ERI personnel are in the immediate RF zones.

3.3 Downtime resulting from situations beyond the control of ERI or its subsidiary ERI Installations, Inc. as described above, will be billed at normal labor rates.

3.4 The Proposal on labor to install tower and/or antenna and other related equipment is based upon weather and time of day suitable for outdoor construction. Installation, field services and hazardous operations shall not be performed under adverse weather conditions for the safety of ERI personnel. Adverse weather delays shall be charged to Buyer at normal day rates and will be added to the construction schedule as time extensions. Certain operations may be performed under adverse weather conditions by mutual agreement and shall be billed at special rates provided in the Proposal. The ERI representative is the sole determinant of suitable and safe conditions while ERI personnel are on site.

3.5 In the event adverse weather causes a delay, ERI will notify the Buyer of those conditions and additional charges as soon as it is practical to do so. The responsibility to determine this condition rests with the ERI supervisor on site.

3.6 The tower site shall be accessible to workman and installation equipment, using two-wheel drive vehicles (under their own power) and heavy construction equipment such as, but not limited to cranes, concrete trucks, semi-tractor trailers, forklifts, etc.

3.7 All labor is based upon non-union wages. Should any conditions exist such that the use of union trades for installation of the tower, accessories and/or foundations is necessary, the prices stated in the Proposal are subject to adjustment unless a union stipulation has been specifically noted in the Proposal. Unless provided by ERI, the foundations must be completed so as to permit continuous work from time ERI's crew reports on the job and must be finished in accordance with ERI's specifications.

3.8 The Buyer assumes all liability resulting from site conditions differing from those specified or agreed to by the Buyer.

3.9 Unless otherwise specified in the Proposal, it is also Buyer's responsibility to:

3.9.1 To provide one (1) tagline path (75 feet wide and equal in length to the height of the tower) at the work face, cleared of all obstructions in order to permit a truck to be driven thereon.

3.9.2 Clear a guy path alley and fire lane down each guy radial 25 feet wide on each side of the guy line; and extend this lane 50 feet beyond the outer guy anchor, a 10-foot width of this 50-foot lane must be cleared of all obstructions in order to permit a truck to be driven thereon.

3.9.3 So grade the area immediately surrounding the tower site so as to permit the movement of trucks, cranes and/or other equipment required to handle and install the tower or related appurtenances.

3.9.4 Clear an area a minimum of 200 feet x 200 feet adjacent to the center of the tower to permit unloading, sorting, assembling, working space, and shall provide a hoist and equipment area 20 feet x 50 feet with capabilities for anchoring.

3.9.5 Provide a free and clear radius of 100 feet at the tower base for construction equipment and to allow staging and landing during tower construction and for future service work. This area shall have a rock/gravel surface bedding to support heavy equipment.

3.9.6 Provide fittings and gas required in pressure checking all of the antennas and transmission lines, if required.

3.9.7 A safe and secure work site to prevent theft and vandalism of contractor provided equipment and materials and Buyer delivered materials.

3.9.8 Provide electric power to the base of the tower suitable for powering construction equipment and tools. This also includes permanent electric power for the tower lighting system, if required, in accordance with the current revision of FAA circular AC 70/7460-1.

3.9.9 Provide the police service to direct traffic, if in the event the guy lines should cross a public or private road and secure the site from theft or vandalism of ERI equipment.

3.9.10 Provide toilet facilities, water, and trash containers for waste disposal. If sufficient trash receptacles are not provided, all trash and removed steel, antennas, mounts, lines, etc. shall be neatly left on site.

3.9.11 Provide scaled site survey of proposed tower location specifying tower location and orientation, property boundaries, site topography, overhead or buried utility service lines, or any other construction hazards or obstructions. Also provide survey required for antenna location and/or directional proof.

3.9.12 Provide a cleared and level area suitable for and capable of anchoring a hoist with a minimum area of 30' x 25'.

3.9.13 Obtain a tower structural analysis from a licensed Professional Engineer appropriate to the scope of work being requested.

3.9.14 Obtain any necessary rights of way and/or easements to allow access to work sites.

3.9.15 Provide a local certified electrical worker to make final connections. ERI's responsibility for lighting conduit and electrical wiring ends at the base of the tower.

3.9.16 Coordinate any required RF reductions or off-air time to allow ERI to perform necessary work in a safe and acceptable RF environment without any work flow interruption. If this cannot be accomplished, standby charges will apply at standard rates. ERI is NOT responsible for any consequential damages or loss of revenue or audience as a result of having to reduce transmitter power or go off air in order to accomplish a safe working environment.

3.9.17 Provide surveyed and staked locations for utilities, foundations, and directional proof prior to arrival of tower installation and/or foundation installation crews. Surveys must be coordinated with ERI.

3.10 When foundations are specified as a part of the Proposal, the Proposal for such work is based upon such work being undertaken and completed under "assumed normal" soil conditions as described by the latest revision of the ANSI/EIA-222 code. It shall be the responsibility of the Buyer to supply specific soil descriptive parameters, and ERI shall have an absolute right to rely on written test reports furnished by Buyer in the preparation of foundation drawings and in the installation of foundations. Normal soil conditions do not include rock, saturated soil, frozen soil, peat, or other soil variations similar or dissimilar. If subsurface soil conditions differ from geotechnical report and delay foundation work, the project schedule will be increased accordingly, and additional charges will be billed.

3.11 The installation price does not include work such as clearing or grading of tower site; installing, re-locating or repairing utility services; obtaining profiles or surveys; installing grounding systems unless specified; blasting; rock removal; water evacuation; cribbing; installing fill; removal of obstructions; snow removal, installation of planking; road building; clearance for site access; clearing of guy anchor paths; or any other kind of site preparation or site maintenance work.

3.12 If necessity dictates non-included labor or materials to be expended resulting from but not limited to, compliance to OSHA or local safety standards, inadequate site accessibility, non-included specified soil conditions, non-included labor or material requirements, then ERI shall be allowed to increase the installation and materials price to include any additional cost incurred, plus a reasonable profit.

3.13 ERI has the right to complete installation work early and be compensated for delay damages if other segments of the project, not in ERI control, affect an early completion of any part of ERI's work if ERI submits a reasonable plan to place the Buyer on notice of the intent to finish early and submits documentation of delays.

3.14 If requested or approved by the Buyer, ERI may provide accelerated services including overtime and/or multiple crews, as required to maintain the schedule or provide other services, and Buyer agrees to compensate ERI for such services.

Revised July 23, 2020