March 6, 2019

Mr. Brandon McClain, Chair
Automatic Data Processing Board
451 West Third Street
Dayton, OH 45402

Dear Mr. McClain:

An Automatic Data Processing Board meeting has been scheduled for Wednesday, March 13, 2019 at 9:00 a.m. in the 6th floor Data Processing Training/Conference Room. The agenda will be as follows with supporting documentation attached.

(1) Minutes from February 13, 2019 meeting

(2) Office of Emergency Management - Purchase of Radiation Detection Pagers and Accessories from Thermo Eberlin (cost not to exceed $96,000.00)

(3) Office of Emergency Management - Purchase of Portable Radios and accessories from J & K Communications (cost not to exceed $60,000.00)

(4) Environmental Services - Hardware and professional services purchases ($61,692.62)

(5) Environmental Services - Professional services for technical support with Cityworks (cost not to exceed $87,000.00)

(6) Coroner’s Office - Purchase of Liquid Chromatography Mass Spectrometry (LCMSMS) machine including licenses and installation ($260,062.54)

(7) Coroner’s Office - Life Technologies/Applied Biosystems Purchase and Integration including system, licenses and installation ($161,829.60)

(8) Common Pleas Court-General Division - Purchase of the Ohio Community Supervision System (OCSS) ($51,400.00)
Mr. McClain

Page 2

March 6, 2019

(9) Microsoft Dynamics 365 Implementation Team - Contract Change Order ($178,000.00)

Sincerely,

[Signature]

KARL L. KEITH, Secretary
Automatic Data Processing Board

KLK/bru

Attachments

Cc: ADP Board Members
    James Alford, Data Processing Director
    Tina Ratcliff, Records Manager
    Steven Hollon, Common Pleas Court Administrator
    Kate Evans, Auditor’s Office
    Lynn Cooper, Treasurer’s Office
    Mary Montgomery, Prosecutor’s Office
    Erik Blaine, Coroner’s Office
    Jonathan Rike, BCC IT
    Chris Boyd, Data Processing
    Ellis Shockley, Data Processing
    Eric Armstrong, Domestic Relations Court
    Jennifer Petrella-Ahrens, Domestic Relations Court
    Tyler Small, Administrative Services
    Bart Kincaid, Sheriff’s Office
    Debra Harden, Recorder’s Office
    Herb Davis, Clerk of Courts’ Office
    Edward McNachtan, Common Pleas Court
    Marsha Shaffer, Purchasing
    Ashley Kohl, Auditor’s Office
    Zach Zugelder, Treasurer’s Office
    Jeffrey Jordan, Office of Emergency Management
    Bethany Colby-Lauffenburger, BCC-IT
    Janet Holman, OMB
    Katie Joseph, Auditor’s Office
    News Media
AUTOMATIC DATA PROCESSING BOARD MEETING
February 13, 2019

PRESENT: Brandon McClain, Chair
Karl Keith, Secretary
Sheriff Rob Streck, Member
Mike Foley, Member
Steve Harsman, Member
Jan Kelly, Member
Russell Joseph, Member
Tina Ratcliff, Records Management
Jonathan Rike, BCC/IT
Bart Kincaid, Sheriff’s Office
Kery Gray, Commissioner Carolyn Rice’ Office
Bill Epperson, Facilities Management
Brandy Burchett, Coroner’s Office
Sarah Greathouse, Board of Elections
Kate Evans, Auditor’s Office
James Alford, Data Processing
Ellis Shockley, Data Processing
Chris Boyd, Data Processing
Kim Wong, Data Processing
Betty Upshaw, Data Processing Administrative Assistant

The Chair, Brandon McClain, called the February 13, 2019 Automatic Data Processing Board meeting to order. (A copy of the agenda is attached hereto for reference.)

Agenda item number one was the review and approval of the minutes from the January 14, 2019 meeting. Karl Keith made a motion for approval of the minutes as presented. Motion seconded by Russ Joseph. Motion carried unanimously.

Before proceeding to agenda item number two, Karl Keith recognized two new members of the Data Processing Board. Those members were the newly elected Clerk of Courts, Mike Foley and the new County Treasurer, Russell Joseph. Mr. Foley reminded Mr. Keith he had attended the January 2019 meeting where he was welcomed. Mr. Keith apologized for forgetting Mr. Foley was at that meeting.

The second agenda item was a request from the Sheriff’s Office which sought the Board’s approval of the purchase of a new surveillance camera system for the Sheriff’s Office Headquarters. Bart Kincaid, the IT Director for the Sheriff’s Office, apprised Board members this purchase would be part of the campus security project that is going on for the county courts and the surrounding facilities. Mr. Kincaid explained the current system has been in place for about 20 years and has not function properly for some time due to hardware
failures. Bill Epperson from Facilities Management further explained this purchase, which would be one part of the overall project, is a network-based video recorder with IP cameras. Mr. Epperson informed members the system was competitively bid through the county bidding process with Mile Ahead Technology being awarded the contract at a cost not to exceed $57,006.00. Mr. Kincaid added the ongoing annual maintenance cost would be $4,500.00. Following the presentation of this request, there was a discussion about the project, county-wide security issues, the funding source, and the retention schedule for the DVR system. After this discussion, Karl Keith moved for approval of the request. Motion seconded by Russ Joseph. Motion carried unanimously.

Agenda number three was also a request from the Sheriff’s Office seeking the Board’s approval of the purchase of consulting services and data analysis from SunDog Analytics, LLC. Bart Kincaid told members this purchase would be a multi-year contract that would terminate after calendar year 2021. Mr. Kincaid briefed the Board on the services included in the contract as outlined in the request letter. He said the yearly contract cost would be $175,000.00 with a 3-year cost not exceed $525,000.00. Following Mr. Kincaid’s presentation, Karl Keith asked him if the consulting services of SunDog Analytics been used in the past. Mr. Kincaid told him they had used this vendor in the past on an as needed basis. Karl Keith then moved for approval of the request. Russ Joseph seconded the motion. Motion carried unanimously.

The next item of business, agenda item number four, was a request from the Board of Elections asking for approval to purchase a new voting system from the selected vendor, Election Systems and Software (ES&S), at a cost of $5.01 million dollars. Jan Kelly, the Director of the Board of Elections, reported the Ohio General Assembly passed Senate Bill 135, the Voting Equipment Acquisition Program, in June of 2018. Ms. Kelly said the state of Ohio allocated 4.75 million dollars to the Board of Election via a state grant to purchase a new voting system. She reported the remaining balance of $537,995.34 would come from the capital improvement fund. Ms. Kelly explained the selection process which included input from the general public. She said the Board of Election Board voted to recommend ES&S as the provider for their new voting system. Ms. Kelly outlined the equipment to be purchased which includes the following:

ES&S Model number DS200 Precinct Scanners (400)

Model DS850 High Speed Digital Image Scanners (2)

Express Vote Ballot Marking Device Terminal Version 2.1 with 2.4 GB Memory Devices (815)
ES&S Software EVS 6.x.x.xPYO Standard with English Language
5 years of software and firmware licensing.

There was further discussion on the future voting process and the paper based system. After this discussion, Steve Harsman told Board members the Board of Elections would be coming back for approval of a new electronic Poll book because that is not a part of the primary voting system. Mr. Harsman said that it would be considered a peripheral to the voting system. He said they are working with Marsha Shaffer in Purchasing to develop an RFP for that equipment. Following further discussion, Karl Keith made a motion to approve the request. Russ Joseph seconded the motion. Motion carried unanimously.

Agenda items number five and six were tabled since no one from the Office of Emergency Management was in attendance to present them. Karl Keith recommended these agenda items be brought before the Board next month.

There being no further business, Jan Kelly made a motion to adjourn the meeting. Steve Harsman seconded the motion. Motion carried unanimously.

Respectfully submitted,

[Karl L. Keith, Secretary
Automatic Data Processing Board]

KLK/bru

Attachment
Mr. Brandon McClain, Chair
Automatic Data Processing Board
451 West Third Street
Dayton, OH 45402

Dear Mr. McClain:

An Automatic Data Processing Board meeting has been scheduled for Wednesday, February 13, 2019 at 9:00 a.m. in the 6th floor Data Processing Training/Conference Room. The agenda will be as follows with supporting documentation attached.

(1) Minutes from January 14, 2019 meeting

(2) Sheriff's Office - Purchase of New Surveillance Camera System from Miles Ahead Technology (cost not to exceed $57,006.00)

(3) Sheriff's Office - Multi-Year Contract for the Purchase of Consulting Services and Data Analysis from SunDog Analytics, LLC. (total 3 year cost not to exceed $525,000.00)

(4) Board of Elections - Purchase of new voting system from Election Systems and Software (ES&S) (county's cost of $537,995.34)

(5) Office of Emergency Management - Purchase of Radiation Detection Pagers and Accessories from Thermo Eberlin (cost not to exceed $96,000.00)

(6) Office of Emergency Management - Purchase of Portable Radios and accessories from J & K Communications (cost not to exceed $60,000.00)

Sincerely,

Karl L. Keith,
Secretary
Automatic Data Processing Board
KJK/bru

Attachments

Cc:  ADP Board Members
     James Alford, Data Processing Director
     Tina Ratcliff, Records Manager
     Steven Hollon, Common Pleas Court Administrator
     Kate Evans, Auditor’s Office
     Lynn Cooper, Treasurer’s Office
     Mary Montgomery, Prosecutor’s Office
     Jonathan Rike, BCC IT
     Chris Boyd, Data Processing
     Ellis Shockley, Data Processing
     Eric Armstrong, Domestic Relations Court
     Jennifer Petrella-Ahrens, Domestic Relations Court
     Tyler Small, Administrative Services
     Bart Kincaid, Sheriff’s Office
     Debra Harden, Recorder’s Office
     Herb Davis, Clerk of Courts’ Office
     Edward McNachtan, Common Pleas Court
     Marsha Shaffer, Purchasing
     Ashley Kohl, Auditor’s Office
     Jeffrey Jordan, Office of Emergency Management
     News Media
To: James Alford, Data Processing

From: Jeffrey Jordan, Office of Emergency Management

Date: February 6, 2019

Subject: Data Processing Board Agenda Request

This is a request for approval by the Data Processing Board to purchase Radiation Detection Pagers and accessories from Thermo Eberlin. This equipment is being purchased for Homeland Security Region III Law Enforcement Agencies. We will purchase 25 Pagers at a price not to exceed $96,000.00. We will purchase the Pagers using funds that are made available from FY16 Law Enforcement State Homeland Security (LE SHSP) grant for Homeland Security Region III. The Bid # for this project is SO800019. The Montgomery County Office of Emergency Management serves as the Signatory Official for the LE SHSP grant.

The Radiation Detection Pagers will be used by law enforcement officers in Homeland Security Region III. The purpose of this project is to provide law enforcement officers with the ability to scan license plates so they can be crossed referenced with law enforcement hot sheets.

Homeland Security Region III is an eight county region that includes Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble and Shelby counties. The LE SHSP Grant Advisory committee is made up of law enforcement officers from the counties in the Region. All decisions pertaining to the procurement of products and services funded through the LE SHSP grant are made through the LE SHSP Grant Advisory committee.

There are no services to be provided by Montgomery County Data Processing staff regarding this procurement. Should you have any questions or need additional information, please contact me at 937-224-8936. Thank you for your assistance in this matter.

Sincerely,

Jeffrey Jordan, Director
Montgomery County
Office of Emergency Management

birth place of innovation
# Automatic Data Processing Board Checklist

**Department:** Emergency Management  
**Name:** Jeffrey Jordan

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>STS#</th>
<th>GSA#</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the department purchasing off state term?</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the department purchasing off GSA?</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is this purchase considered an upgrade?</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement?</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Purchase?</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The amount of this purchase will not exceed: $96,000.00  
The funding for this purchase will come from: 211901

Are there any integrations issues?  
Yes [ ]  No [ ]

If yes, explain:

Were your system specifications developed internally or by and outside vendor/source?  
The radiation detection pagers specifications were developed using internal.

If outside vendor/source, identify:

Is this purchase being purchased off of a different contract?  
Yes [ ]  No [ ]

If yes, what is the contract number? SO800019

Who authorized this from the Purchasing Department?
<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
<th>Qty.</th>
<th>Availability</th>
<th>Item Subtotal</th>
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</thead>
<tbody>
<tr>
<td>17-821-820 RadEye™ GN and GN+ Gamma Neutron Pagers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description: RadEye GN Gamma Neutron Pagers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>by Thermo Scientific™ 4250630</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$3,810.00 / Each</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ships from manufacturer</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$99,060.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Subtotal | $99,060.00  |

| Estimated Shipping * | $55.00  |

| Shipping charge | $55.00  |

| Estimated Tax | $0.00  |

| Cart Total | $99,115.00  |

*Price and availability are subject to change.
Thermo Scientific™ RadEye™ GN and GN+ Gamma Neutron Pagers

Catalog No. 17-621-820

$3,810.00 / Each

Be warned of rising levels of gamma and neutron radiation as soon as it occurs with radiation detection devices for nuclear search and emergency response operations.

Manufacturer: Thermo Scientific™ 4250630

Description

Early warning of harmful nuclear materials is critical for first responder safety. Thermo Scientific™ RadEye™ GN and GN+ Gamma Neutron Pagers are highly sensitive radiation detection devices that warn of rising levels of gamma and neutron radiation and immediately classify the gamma source (NORM/non NORM). These small, lightweight units provide clear visual and audio alarms to help emergency services personnel locate radioactive materials in a variety of situations. They are also an excellent tool for expanding the surveillance area of stationary monitoring systems or to verify alarms of such systems.

The Thermo Scientific RadEye GN Gamma Neutron Pager has a very high neutron sensitivity that exceeds the time-to-time requirements of ANSI 42.32 and IEC 62401. Both RadEye GN and RadEye GN+ pagers incorporate a single highly sensitive scintillation detector equipped with a miniature photo-multiplier to detect very low radiation levels of both gamma and neutron radiation from any source.

The RadEye GN pager uses a conventional Li-6 doped scintillator material and the RadEye GN+ pager contains a Ce doped Cs2LiYCl6 (CLYC) crystal. CLYC provides superior gamma neutron separation, making the RadEye GN+ pager an effective tool even in scenarios of combined gamma neutron fields containing high energy gamma radiation.
- Ideal for law enforcement officers and first responders.
- Small and compact instrument design.
- Very high neutron and gamma sensitivity.
- Immediate classification of gamma source (NORM/non-NORM).
- Energy compensated gamma dose rate.
- Dual gamma/neutron display.
- No false neutron alarms for even intense gamma sources.
- Large LCD display has 8 mm numerals and large clear radiation units, including a quick-view bar graph of current count-rate / dose-rate and alarm points, including the floating sigma alarm point, if utilized.
- The RadEye GN pager can be fitted with a Bluetooth™ back that can be set to talk to a PC, or to other devices for networking.
- May be worn on a belt.

Alarm Status Display Settings:

The RadEye GN indicates whether the alarms are due to gamma or neutron by a different colored alarm LED, different tones and flashing the count rate/dose rate display readings with an inverted display background of the alarming channel or both channels.

as appropriate. The RadEye GN also has different audible alarms, discriminating between elevated background/NORM and any artificial isotope alarm. The gamma and neutron audible alarms are clearly different. This gives the RadEye GN audible and visual identification using NBR of the type of material detected.

A bright orange LED for gamma alarms and a bright blue LED for neutron alarm is viewable from the front and above. When a dual gamma and neutron alarm is detected, both LEDs flash. Both readings on the display are flashed with a reversed background.

- Artificial low energy alarm
- Artificial mid energy alarm
- Artificial high energy alarm
- NORM balanced alarm
- Gross gamma count or dose rate alarms (2 alarm levels)
- Gross neutron count rate alarm
- Gamma dose alarm (2 alarm levels)
- Safety alarm (gamma)

This product(s) resides on a Fisher Scientific GSA or VA contract. If you are viewing this page as a nonregistered user, the price(s) displayed is List Price. To view your GSA or VA contract pricing, log in using your account number, or become a registered user by contacting one of our Customer Service teams. You can also view your contract price by searching for this item(s) on GSA Advantage. To place an order, contact Fisher Scientific Customer Service.

## Specifications

<table>
<thead>
<tr>
<th>Radiation Type</th>
<th>Gamma, Neutron</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detector Type</td>
<td>Li-6</td>
</tr>
<tr>
<td>Height (English)</td>
<td>3.8 in.</td>
</tr>
<tr>
<td>Depth (English)</td>
<td>1.2 in.</td>
</tr>
<tr>
<td>Neutron Response</td>
<td>Neutron count-rate: from 0.1 to 1000 cps; Neutron efficiency: 43 cps/20,000 n/s Cf-252; shielded in 1cm lead 25cm in front of instrument with 30 x 30 x 15cm PMMA phantom</td>
</tr>
<tr>
<td>Weight (English)</td>
<td>5.6 oz.</td>
</tr>
<tr>
<td>Width (English)</td>
<td>2.4 in.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type</th>
<th>Gamma Neutron Pager</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
<td>RadEye GN Gamma Neutron Pager</td>
</tr>
<tr>
<td>Height (Metric)</td>
<td>96mm</td>
</tr>
<tr>
<td>Depth (Metric)</td>
<td>31mm</td>
</tr>
<tr>
<td>Sensitivity</td>
<td>Gamma (0.01μSv/h-250μSv/h), Neutron (0.1-1000 cps)</td>
</tr>
<tr>
<td>Weight (Metric)</td>
<td>160g</td>
</tr>
<tr>
<td>Width (Metric)</td>
<td>61mm</td>
</tr>
<tr>
<td>Certifications/Compliance</td>
<td>Exceeds ANSI 42.32 and IEC 62401 alarm requirements</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Battery Life</th>
<th>&gt;300 hr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detectors</td>
<td>Gamma count-rate from 30KeV to 1.3MeV Energy compensated gamma dose rate from: 45KeV to 1.3MeV H^* (10) Dose rate range: 1 μRem/h to 25 mRem/h (0.01μSv/h to 250μSv/h) Gamma Efficiency: 900 cps per μSv/h (Am-241); 130 cps per μSv/h (Cs-137); 60 cps per μSv/h (Co-60) Neutron count-rate from 0.1 to 1000 cps Neutron Efficiency: 4.3 cps/20,000 n/s Cf-252; shielded in 1cm lead 25cm in front of instrument with 30 x 30 x 15cm PMMA phantom.</td>
</tr>
<tr>
<td>Item Description</td>
<td>RadEye GN Gamma Neutron pager</td>
</tr>
</tbody>
</table>

One moment while we fetch your results.
January 17, 2019

Jacqueline Bailey
Office of Emergency Management
117 S. Main St., Suite 721
Dayton, OH 45402

Subject: SO800019, Radiation Detection Pagers (Re-Bid)

Dear Ms. Bailey,

In response to the above-referenced Formal Invitation for Bid, Thermo Fisher LLC ("Thermo Fisher") is pleased to submit the enclosed proposal package for Radiation Detection Pagers via hard copy (2 Complete Packets and 1 Flash Drive) to the address above.

Included in the Proposal, please find:
- Statement of Qualification
- References
- Specification Exceptions
- Warranty Information
- Technical Response (Includes exceptions to specifications)
- Thermo Fisher Quotation 00167643, dated 17 January 2019
- ANSI N42.33, 42.32, IP65, and IEC62401 Test Report
- Thermo Scientific RadEye SPRD Brochure
- RadEye SPRD-GN - Quick Start Guide

Statement of Qualification:

Thermo Fisher Scientific (NYSE: TMO) is the world leader in serving science, with revenues of $20 billion and more than 70,000 employees globally. Our Mission is to enable our customers to make the world healthier, cleaner and safer.

Thermo Fisher provides high quality Radiation Measurement and Security Instruments to detect, localize, identify and measure radioactive threats that may occur during any mission and in any scenario. From routine monitoring and surveillance to emergency response situations, our advanced, integrated radiation detection instruments mitigate the threat and keep the public safe. These products assist in protecting the United States, its people, territory, and its interests against the unauthorized importation, possession, storage, transportation, development, or use of an unauthorized nuclear explosive device, fissile material, or radiological material, and protect against attacks using such devices or material.

Thermo Fisher has established, documented, implemented and maintained a quality management system that continually improves its effectiveness in accordance with the requirements of ISO9001. All processes that impact product quality conform to the requirements and are controlled by the purchasing, engineering and quality groups. The management team ensures that quality objectives are established and measured.
References:

Pasquale Razzano
Radiological Analyst
Ohio Emergency Management Agency
Ohio Department of Public Safety
Office: (614) 799-3653
Purchase Date: June/July/August 2018

Patrick L. Morris
Columbus Div Of Fire Bomb Squad
222 Greenlawn Ave
Columbus OH 43223
614-724-0730 - offc. 75073
Purchase Date: June 2017

George D. Mosho
Team Captain/Scientist - Health Physicist
Radiological Assistance Program
U.S. Department of Energy Region 5
Global Security Sciences Division
Argonne National Laboratory
9700 S. Cass Ave
Argonne, IL 60439
P: 630-252-6172
Purchase Date: August 2017

Warranty Information:
"Seller" is Thermo Fisher
"Buyer" is Montgomery County

WARRANTY. Seller warrants that the Products will operate or perform substantially in conformance with Seller's published specifications and be free from defects in material and workmanship, when subjected to normal, proper and intended usage by properly trained personnel, for the period of time set forth in the product documentation, published specifications or package inserts. If a period of time is not specified in Seller's product documentation, published specifications or package inserts, the warranty period shall be one (1) year from the date of shipment to Buyer for equipment and ninety (90) days for all other products (the "Warranty Period"). During the Warranty Period, Seller agrees, in its sole discretion, to repair or replace Products and/or provide additional parts or services as reasonably necessary to cause the Products to perform in substantial conformance with said published specifications; provided that Buyer shall (a) promptly notify Seller in writing upon the discovery of any defect, which notice shall include the product model and serial number (if applicable) and details of the warranty claim; and (b) after Seller's review, Seller will provide Buyer with service data and/or a Return Material Authorization ("RMA"), which may include biohazard decontamination procedures and other product-specific handling instructions, then, if applicable, Buyer may return the defective Products to Seller with all costs prepaid by Buyer. Seller further reserves the right, in its sole discretion, to extend any Warranty Period if at the time that the Warranty Period would otherwise expire, there are ongoing concerns regarding a Product's conformance to the warranty stated herein. Replacement parts may be new or refurbished, at the election of Seller. All replaced parts shall become the property of Seller. Shipment to Buyer of repaired or replacement Products shall be made in

Thermo Fisher Scientific Proprietary / Confidential
accordance with the Delivery provisions of the Seller's Terms and Conditions of Sale. Consumables are expressly excluded from this warranty. If Seller elects to repair defective medical device instruments, Seller may, in its sole discretion, provide a replacement loaner instrument to Buyer as necessary for use while the instruments are being repaired.

Notwithstanding the foregoing, Products supplied by Seller that are obtained by Seller from an original manufacturer or third party supplier are not warranted by Seller, but Seller agrees to assign to Buyer any warranty rights in such Product that Seller may have from the original manufacturer or third party supplier, to the extent such assignment is allowed by such original manufacturer or third party supplier.

In no event shall Seller have any obligation to make repairs, replacements or corrections required, in whole or in part, as the result of (i) normal wear and tear, (ii) accident, disaster or event of force majeure, (iii) misuse, fault or negligence of or by Buyer, (iv) use of the Products in a manner for which they were not designed, (v) causes external to the Products such as, but not limited to, power failure or electrical power surges, (vi) improper storage and handling of the Products or (vii) use of the Products in combination with equipment or software not supplied by Seller. If Seller determines that Products for which Buyer has requested warranty services are not covered by the warranty hereunder, Buyer shall pay or reimburse Seller for all costs of investigating and responding to such request at Seller's then prevailing time and materials rates. If Seller provides repair services or replacement parts that are not covered by this warranty, Buyer shall pay Seller therefor at Seller's then prevailing time and materials rates. ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN SELLER WITHOUT SELLER'S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS NOT SUPPLIED BY SELLER, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE AFFECTED PRODUCTS. THE OBLIGATIONS CREATED BY THIS WARRANTY TO REPAIR OR REPLACE A DEFECTIVE PRODUCT SHALL BE THE SOLE REMEDY OF BUYER IN THE EVENT OF A DEFECTIVE PRODUCT. EXCEPT AS PROVIDED HEREBIN, SELLER DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER DOES NOT WARRANT THAT THE PRODUCTS ARE ERROR-FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT.

Technical Response to SO 800019 Radiation Detection Pagers
Thermo Scientific SPRD

General Information:
The Thermo Scientific SPRD is used by Federal, State, Local and Homeland Security Law enforcement officials to detect the presence, source identification and levels of radiation in an area. They have been used all over the country to keep locations secure from the threat of nuclear bombs or radiation dispersal devices otherwise known as RDDs or "Dirty" bombs.
Delivery:

a. The Thermo Scientific RadEye SPRD is our initial offering for the SO 800019 bid for Radiation Detection Pagers. The RadEye is the preferred device for many federal, state and local agencies for its sensitivity and lack of false alarms often in continuous use as a moving security curtain.

b. The RadEye SRRD is capable of identifying the exact radioactive material isotope detected, as well as classifying it as Special Nuclear Materials (SNM) related or, Industrial (possible RDD threat) or Medical or as natural (NORM) present within a wide area and alerting officers

c. Ten to thirty RadEye SPRDs will be supplied each with a holster, with a gun holster type belt clip.

d. The order will ship complete with one accessory Lu176 Test Adapter kit with this offering.

Radiation Detection Pager (PRD) Specifications:

a. The RadEye SPRD has a 180 hour Battery life and can be used with alkaline batteries, or rechargeable batteries that can be charged in the RadEye or externally. An optional charger is offered and replacement batteries will be included to give 500 hours use.

b. The RadEye SPRD has the option to be operated while plugged into the charger base for continuous use.

c. The RadEye SPRD weighs 6oz with batteries and rubber bumper.

d. The RadEye SPRD is 4" tall and 1.25" deep

e. The RadEye SPRD is very shock resistant. It exceeds the ANSI drop test Standard for PRDs which is all six faces onto a hard surface from 1.5M (5ft). It is fitted with a rubber bumper and all the electronics and the detector inside the RadEye floats on rubber mounts with no direct connection to the case.
f. The Radeye SPRD will be quoted with optional charger as requested in the addendum.

g. The Radeye SPRD will come with two spare AA batteries

h. The RadEye SPRD exceeds IP65 dust and water resistance standards and the IEC type test document is attached for reference. The RadEye is dust and water resistant to IP65 and is capable of working in all temperature and humidity environments. It has an ‘O’ ring seal around the case and the battery compartment and a silicon seal around the display glass. The detector materials are sealed and are also resistant to temperature changes and extremes. Please note that the RadEye is calibrated from -20 to 30 degrees C, but will operate very effectively outside that range also. Many other Radiation Pagers detection capabilities are significantly reduced in warm environments especially those using CsI detectors. The RadEye SPRD has automatic stabilization features to avoid this. The IEC type test document is attached for reference regarding environmental performance.

i. The RadEye SPRD has a very strong vibration alarm for high levels of radiation.

j. The Radeye SPRD has a very bright flashing light feature, which can be switched on and off in the menu for high noise environments. The RadEye alerts include a loud audio alarm with different sounds for different alarms. Also an Orange LED visible from all angles for Gamma alarms. There is a very strong vibration alarm. The display shows the type of alarm (detection, high count rate, safety levels, natural, artificial/investigate, medical, dose rate 1, dose rate 2, dose 1 dose 2 etc.) and the backlight is brightly lit. These alerts can each be switched off separately to be more covert or to minimize public concern. A headphone can be connected for covert operation or high noise environments, this automatically mutes the RadEye.

k. The Radeye SPRD can perform an accurate identification of a radiological source within 5 minutes due to its large detector and the latest spectrum analysis algorithms.

l. The RadEye SPRD-GN has a large digital display screen as seen below. The user can switch between a gamma display, a dose rate display and a graphical history display in normal use. A spectrum display is available when an Isotope ID is made.
m. The RadEye SPRD will be quoted with a three-year warranty.

n. The RadEye SPRD is water resistant to IP65 and is capable of working in all temperature and humidity environments. It has an ‘O’ ring seal around the case and the battery compartment and a silicon seal around the display glass. The detector materials are sealed and are also resistant to temperature changes and extremes. Please note that the RadEye is calibrated from -20 to 50 degrees C, but will operate very effectively outside that range also. Many other Radiation Pagers detection capabilities are significantly reduced in warm environments especially those using CsI detectors. The RadEye SPRD has automatic stabilization features to avoid this. The IEC type test document is attached for reference regarding environmental performance.

o. The RadEye SPRD stores data permanently into flash memory and even removing the batteries will not stop the data being stored for at least ten years. A window of two days of history is the usual default setting but it can be set to be as long as required along with 200 identification spectra. The RadEye SPRD stores data automatically with no button pressing. It is easy to download the data to a PC with the software provided with each RadEye.

p. The RadEye SPRD exceeds ANSI N42.33, 42.32 and IEC62401 radiation detection standards for radiation detection and durability, including low energy gamma detection which is critical for Special Nuclear Materials (also known as SNM) used in nuclear weapons. This includes static and fast mobile detection. Documentation is attached.

q. The RadEye SPRD is a gamma detector and is able to detect the gamma emissions from an alpha source. To have a real alpha particle detector requires a thin window detector. Thin window alpha detectors do not meet the IP65 requirements or the drop test requirements. Nor are they pager sized. Nor can they perform radioactive identification. We have offered the RadEye B20 as an alternate option for alpha particulate detection and we know of NO manufacturer that makes a single pager type detector that truly can perform both types of measurement. Please note that thin window detectors have a very limited gamma detection capability and are about 50-100 times LESS sensitive to gamma that a RadEye SPRD and CANNOT DO
IDENTIFICATION. We believe that Montgomery County may have merged two different requirements here. Please also note that alpha particulate detection is impossible from inside a vehicle or from a distance of more than an inch or two.

r. The RadEye SPRD can determine if the radiation isotope is medical, natural background (NORM) or illicit (industrial or SNM). Please see attached SPRD quick guide for a clear depiction of these displays.

s. The Radeye SPRD has many display options and some of the most used are ones that simplify the displays to accommodate infrequent users. Please see attached RadEye SPRD Quick Guide for a clear depiction of the simple displays.

t. The RadEye SPRD display is front facing.

u. The RadEye SPRD is designed to be used in a vehicle especially when used in a holder or a charging base station. All the buttons and features are easy to access at all times.

v. The RadEye SPRD has a keyboard lock feature, which can also be disabled for simpler use.

w. The RadEye SPRD test kit will include one 36g Lu176 Test Adapter with this offering. These adapters can be used for performance verification of highly sensitive gamma detectors. The design of the special shape enclosure and high density Lu2O3 ceramics minimizes the required activity for small size detectors. These adapters can be used for performance verification of highly sensitive gamma detectors such as the SPRD.
Exceptions to Specifications:

Battery life

The RadEye SPRD has a 180 hour Battery life and can be used with alkaline batteries or rechargeable batteries that can be charged in the RadEye or externally. An optional charger is offered and replacement batteries will be included to give 500 hours use.

Detection Radius

No real definition of what detection scenario was being requested for the detection radius. Gamma waves travel much longer distances and the detection radius is defined by the size of the source and the energy of the isotope. A 1uCi Cs137 source can be detected by the Radeye SPRD within a few feet. A 1mCi Cs137 source can be seen many feet away. The Radeye SPRD exceeds the latest federal detection requirements for gamma detection relating to small activities in any direction and distance and speed to alarm. The attached test documents show the gamma detection performance.

Thermo Fisher reserves the right to seek legal approval for terms and conditions before acceptance of any order. Please do not hesitate to contact me if you have any questions or comments. I can be reached at 978-215-1390 or matt.quinn@thermofisher.com.

Sincerely,

[Signature]

Matthew Quinn
Contracts Manager
MONTGOMERY COUNTY
Purchasing Department
451 W. Third St., P.O. Box 972, Dayton, Ohio 45422-1375
Tyler Small
Purchasing and Central Services Director

ITEM: Invitation to Bid
TITLE: SO800019, Radiation Detection Pagers (Re-Bid)
DEPARTMENT: Office of Emergency Management
DELIVERY: 112 S. Main St., Suite 721
Dayton, OH 45402

BID SUBMISSION: Montgomery County Purchasing Department
PO Box 972
451 W. Third Street, 9th Floor
Dayton, OH 45422-1375

DUE DATE: Wednesday, January 23, 2019
DUE TIME: 1:30 p.m., LOCAL TIME
CONTACT: Jacqueline Bailey, Senior Buyer, (937)225-6404
PRE BID: NO PRE BID for this item
BOND REQUIREMENTS: Bid NONE
Performance* NONE

*Performance Bond is required AFTER contract award.

FORM REQUIREMENTS: Form 3 Disclosure Policy.
Form 4 Personal Property Taxes

SUBMISSION REQUIREMENTS:
1. Two (2) COMPLETE PACKETS and one (1) PDF on electronic media (flashdrive) of all documents submitted are required for the complete evaluation of the product or services being offered. Failure to provide required number of copies may be cause to reject your bid.
2. ONE (1) of the complete packets MUST BE THE ORIGINAL and SIGNED IN BLUE INK.
3. All items noted by CHECK MARK above, MUST BE SUBMITTED with bid. Failure to submit the REQUIRED Bond, Forms or Number of Copies MAY BE CAUSE for REJECTION of your bid.
4. All bids MUST BE submitted by the TIME and DATE above. NO BIDS will be accepted after the listed time.
5. Bids shall be in a SEALED envelope or package with the BID Information on the OUTSIDE of the package.
6. ALL Spaces of the Bid Document shall be filled in clearly.
7. It is the BIDDER'S Responsibility to check for Addendum's PRIOR to submitting bids. This can be done by going www.mcohio.org/onlinebids and reviewing the Bid List.
8. It is the BIDDER'S Responsibility to read all General Terms & Conditions.
9. A copy of the Bid Tabulation will be provided upon request. Please allow two weeks before a request is made.
GENERAL CONDITIONS

*****THESE GENERAL CONDITIONS MAY NOT BE ALTERED OR TAKEN EXCEPTION TO BY BIDDESES*****

*****INSTRUCTIONS TO BIDDERS. Please be certain that you have seen and understand all pages of these general conditions, as you will be responsible for doing so. To insure the acceptance of your Bid, please read and follow those directions:

1. Special Conditions: All of the conditions applicable to the Bid shall be read so as to give meaning to all of such provisions. However, when there is a conflict in the interpretation between a special condition in the Bid Document and a general condition, the special condition in the Bid Document shall take precedence.

2. Applicable Law: The Revised Code of the State of Ohio, and the applicable resolutions of the Board of County Commissioners for Montgomery County, Ohio (the “Board”), including as they apply to the laws of competitive bidding, contracts, and purchases are made a part hereof as if fully stated herein. All laws of the United States of America, the State of Ohio, and Montgomery County, Ohio applicable to the products or services discussed herein or to be provided hereby, are also made a part hereof.

3. Pre-bid Conference: There will be a mandatory pre-bid conference unless otherwise provided in the Bid Document. The pre-bid conference will be held at a time and place provided for in the Bid Document to answer any questions the prospective Bidders may have concerning this document, the bidding/selection/contracting process, and the usage of particular services/materials being procured through this specification. The Board, and any officers, employees, successors, administrators or agents of same, will not be responsible for mistakes made by Bidders due to their failure to attend the pre-bid conference. Failure to attend the pre-bid conference may be cause to reject your Bid.

   Questions and inquiries concerning the Bid Document shall be directed to the person designated, to Director, Montgomery County Purchasing Department, 451 West Third Street, Eleventh Floor, Dayton, Ohio 45422. Questions should be submitted in writing ten days prior to the pre-bid conference. All questions and answers covered at the pre-bid conference will be mailed to those in attendance at that conference. While every effort will be made to answer all questions at the pre-bid conference, the written response to any such questions shall be controlling in the event of a conflict with any oral response given at the pre-bid conference.

4. Conflict of Interest: Prospective Bidders shall not contact any public employee by any means or method, including by telephone, regarding this specification and the procurement it represents except in the manner indicated above. Failure to comply with this requirement shall result in the disqualification of the Bidder.

5. Workers Compensation: When required by the Bid Document, the successful Bidder agrees to take out and maintain Workers Compensation Insurance upon its employees throughout the term of the contract. The Bidder also agrees to furnish an official certification from the Industrial Commission of Ohio, showing that the successful Bidder has paid the necessary premiums for Workers Compensation Insurance, whenever the Bid Document requires Workers Compensation. If such certification is required in the Bid Document, no contract between the Board and the Bidder shall be executed until a fully executed copy of such certification has been served upon the Board.

6. Infringements and Indemnifications: To the fullest extent permitted by law, the successful Bidder shall protect, defend, indemnify and hold harmless the Board, and any officers, employees, successors, administrators or agents of same, from and against any and all claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities and expenses of any kind, including but not limited to attorney fees, arising out of or resulting from any acts or omissions of the successful Bidder, its officers, employees, consultants, agents, subcontractors, sub-subcontractors, successors or administrators, negligent or otherwise, and regardless of whether such claims, damages, losses, claims of loss, causes of action, penalties, settlements, costs, liabilities or expense is caused in part by any party indemnified hereunder. The successful Bidder also agrees to be responsible for the payment of all damages, settlements, costs and expenses of any kind, including attorney fees, incurred by the Board while the Board defends or pursues any action, cause of action, or claim which arises out the aforementioned acts or omissions. Such obligations include any claims arising out of the use of any patented material, process, article, or device that may enter into the manufacture, construction, or form a part of the work covered by either the order or contract. Such obligations are not to be construed to negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist as to a party or person described herein.

7. Default Provisions: In case of default by the successful Bidder, the Board may procure the articles or services provided for herein from any other source or sources and hold the successful Bidder responsible for any excess costs occasioned thereby.

8. Termination of Contract: The contract stemming from this Bid shall contain a provision that it may be terminated by either party upon written notice provided to the other party within such time period as the Board may determine thereof.

9. Pricing: Prices should be stated in the units of quantity specified in the Bid Document. If the unit quantities requested are not available, include both the prices for the units that are available and a breakdown of those prices for the quantities requested. In case of a discrepancy in computing the amount of the Bid, quoted unit prices shall govern.

10. Delivery: Quotations should include all charges for delivery, packing, crating, containers, etc. Unless otherwise stated by the Bidder, prices quoted will be considered as being based on delivery to the destination designated in the Bid Document and to include all delivery and packing charges.
11. **Mules:** References to a particular trade name, manufacturer's catalog, or model number, are made for descriptive purposes to guide the Bidder in interpreting the Bid requirements. They should not be construed as excluding proposals on other types of materials, equipment and supplies. However, the successful Bidder will be required to furnish the particular item referred to in the Bid specifications unless a departure or substitution is clearly noted and described in the proposal shown to be compatible with the specifications and accepted by the Board.

12. **Samples:** Samples, when requested, must be furnished free of expense to the Board, and if not destroyed, will upon request be returned at the Bidder's expense.

13. **Cash Discount:** Time in connection with any cash discount offered would be computed from the date of delivery and acceptance at the final destination or from the date at which a properly executed claim voucher is received if the latter date is later than the date of delivery and acceptance at the final destination.

14. **Tax:** The Board is generally exempt from Federal Excise Tax and Ohio State Sales Tax. The County's Federal Tax Exemption Registry number is 528479. The Bidder shall be responsible for payment of any and all taxes, which might otherwise apply.

15. **Bid Information, Rejection and Award:** The Board reserves the right to reject any or all Bids. The Board further reserves the right to waive any irregularities or clerical error in a Bid and to accept that Bid where, in the judgment of the Board or its agents, it is in the best interest of the Board to do so. The Board also reserves the right to accept a part or parts of a Bid unless otherwise noted in the Bid Document.

16. **Payments:** Partial payments may be made upon presentation of a properly executed claim voucher to the Montgomery County, Ohio Purchasing Department, unless otherwise stated in the Bid Document. The final payment will be made when the materials, supplies, services, or equipment have been fully delivered and accepted or the work completed to the full satisfaction of the Board. All invoices must show the properly assigned Montgomery County, Ohio Purchase Order Number.

17. **Bidder's Signature:** Each Bid proposal form must be signed by the person or entity who is making the Bid or by the Bidder's duly authorized agent, using the full and usual signature of the person or entity wherever the Bidder's name is requested in the Bid Document. The following signature forms must be followed:

   **Individuals:** Wherever signatures are requested, the individual bidding shall sign his or her full legal name.
   
   **Examples:** John James Smith.

   **Sole Proprietors:** Wherever signatures are requested, the sole proprietor bidding shall sign his or her full legal name and any applicable fictitious business name (a "doing business as" name or a "d/b/a" name) should appear after that name.
   
   **Examples:** John James Smith d/b/a Goop Co.

   **Partnerships:** Wherever signatures are requested, a partnership bidding shall include the full legal names of the partners comprising the partnership, any applicable fictitious business name of the partnership (a "doing business as" name or a "d/b/a" name), and the name of one or more of the general partners signing the Bid.
   
   **Examples:** John James Smith and Kevin Klandike Jones, d/b/a Goop Co., by John James Smith, partner.

   **Corporations:** Every corporate Bidder must be licensed to do business in the State of Ohio and must be in good standing with the Ohio Secretary of State at the time for opening Bids. Wherever signatures are requested, corporations bidding shall include the full name of the corporation as registered with the Ohio Secretary of State, any applicable fictitious business name of the corporation (a "doing business as" name or a "d/b/a" name), and the name of the authorized corporate officer signing the Bid.
   
   **Examples:** Smith-Jones, Inc. d/b/a Goop Co. by John James Smith, president.

18. **Submission and Rejection of Bids:**

   a) Bidders must use the Bid Document proposal form furnished by the Board or a copy thereof.

   b) Bidders must use the Bid Envelope furnished by the Board or another similarly identified envelope to assure proper handling. If the Bid proposal does not fill into the Bid Envelope furnished by the Board or into another similarly identified envelope, such envelope or similarly identified envelope shall be firmly and prominently attached to the Bid upon submission. All bids must be sealed in an envelope, box or other container.

   c) Separate proposals must be submitted on each reference number.

   d) Proposals having any erasures or corrections therein may be rejected unless explained or noted over the signature of the Bidder.

   e) Fill in all spaces on the Bid Document. Leaving blank spaces may make your Bid unresponsive. If a particular space in the Bid Document is not applicable to your Bid, indicate "Not applicable," "n/a" or some other similar designation.

   f) All documents requiring signatures must have original signatures. No facsimiles will be accepted.

19. **Correction of Errors:** Corrections of errors in a Bid after the Bid opening shall not be allowed except for extension and/or addition errors which are clearly evident in the Board's sole discretion. Correction of such errors shall only be allowed if accomplished by 4:00 p.m. on the second working day after the Bid opening not counting the day of the Bid opening.
20. **Official Clerk:** The official check to determine whether Bids are submitted before the time at which all Bids are due shall be the clock located in the Purchasing Department Office where the Bids are received.

21. **Bid Evaluation:** All Bids received shall be evaluated using the following three (3) procedures:

a) **Bid Document Evaluation:** The submitted Bid is compared to the requirements found herein and in the Bid Document for Bid form and content. Failure to meet any of the requirements specified in the Bid Document may result in disqualification of the Bid.

b) **Bid Specification Evaluation:** The submitted Bid is compared to the specification in the Bid Document. Failure to meet any of the requirements specified in the Bid Document may result in disqualification of the Bid.

c) **Price Evaluation:** The price proposals in a submitted Bid shall be evaluated on the basis of the lowest and best bid pursuant to Ohio Revised Code 1357.86. Bids, which are not lowest and best pursuant to Ohio Revised Code 1357.86 will be disqualified.

The Bid award shall be made to the Bidder(s) whose Bid(s):

i) Has not been disqualified through the Bid Document Evaluation.

ii) Has not been disqualified through the Bid Specification Evaluation.

iii) Has not been disqualified through the Bid Price Evaluation.

22. **Responsible Bidders:** The Board reserves the right to consider all elements entering into the question of determining the responsibility of a Bidder.

23. **Intent:** The intent of the Bid Document and the agreement stemming there from is to include all items necessary for the proper execution and completion of the Work by the successful Bidder. The entire Bid Document and the agreement stemming there from are complete and what is required by law shall be binding as if required by all. Performance of the successful Bidder shall be required only to the extent consistent with the Bid Document and the agreement stemming there from and reasonably inferable from them all as being necessary to produce the intended results.

24. **Equal Employment Opportunity:** The successful Bidder will be required to certify that they comply with the Board's anti-discrimination policy and the contract evidencing such successful Bid will contain a term requiring continued compliance with such policy.

25. **Discharge:** In addition any requirement in the Bid Document, the contract evidencing the successful Bid will contain a covenant to be agreed to by the successful Bidder that it has complied with the Board's disclosure policy adopted pursuant to Resolution No. 83-112, dated January 18, 1983, which requires anyone contracting with the Board to disclose to the Board any business relationship or financial interest that it has with a Montgomery County, Ohio employee or employee's business, or any business relationship or financial interest that a Montgomery County, Ohio employee has with the contracting party or in the contracting party's business. That contract will also create a continuing obligation to disclose such information to the Board.

26. **Offer to Contract:** The contract document to be executed by the successful Bidder shall constitute an offer by the successful Bidder to contract with the Board to supply the Work subject to the Bid Documents. Such contract document shall be neither accepted nor binding until:

1. returned to the Montgomery County, Ohio Purchasing Department within ten (10) days of receipt for signature (unless such time is otherwise extended in writing by the Board or its duly authorized agent),

2. certified by the Auditor of Montgomery County, Ohio, (3) approved by a resolution of the Board, and (4) approved by the Board or the Montgomery County, Ohio Administrator. Such offer to contract shall not be revocable by the Bidder, except as provided by law. In the event no contract document is to be executed by the successful Bidder, the Bid proposal shall constitute an irrevocable offer to enter into a contract and the receipt of the purchase order from the Board pursuant to such contract shall signify the Board's acceptance of the Bidder's offer to contract pursuant to the terms of the Bid Document.

27. **Bid Proposal Evidentiary:** Each Bidder may describe its proposed service by responding, point-by-point, to the functional requirements of the Bid Document and shall so respond to the information requirements of the Bid Document. Such responses shall be tailored to specifically answer or clarify those portions of the Bid Document necessitating an answer or clarification. Regardless of the nature of the Bid Proposal as an "Offer," the addition of or reference to "boiler-plate" language, material or conditions shall not be used in the body of such a response and will be disregarded and treated as if not part of the Bid Proposal and inclusion thereof may be grounds for rejecting the Bid. Additionally, regardless of the nature of the Bid Proposal as an "Offer," any language in the Bid Proposal altering any portion of these General Conditions, particularly, but not limited to, the sections of these General Conditions titled "Filing Requirements and Reconsiderations," "Termination of Contract," "Equal Employment Opportunity," and "Disclosure," will be disregarded and treated as if not part of the Bid Proposal and inclusion thereof may be grounds for rejecting the Bid.

28. **Insurance:** Unless otherwise provided in the Bid Document, the contract stemming from this Bid solicitation shall require that the successful Bidder purchase and maintain a policy of insurance to protect the successful Bidder and the Board from claims which may arise out of the contract stemming from this Bid solicitation. Unless otherwise provided in the Bid Document, such insurance policy shall be written for not less than one million dollars ($1,000,000.00) for any person injured in any accident and with a total liability of two million dollars ($2,000,000.00) for all persons injured in any one accident and in the amount of one million dollars ($1,000,000.00) for each accident or occurrence as compensation for damage caused to property of others.

29. **Performance or Payment Bond:** The successful Bidder shall furnish a bond to the Board covering faithful performance of the contract and payment of obligations arising there under in an amount equal to one hundred percent (100%) of the full amount provided for under the contract and that bond shall be conditioned upon the faithful performance of that contract and shall remain in effect for the duration of the contract term. This requirement may be satisfied by the successful Bidder posting a bond, or by providing a letter of credit or a cashier's check in the amount specified. If the bond satisfies the requirement, the surety for such bond shall be a surety company authorized to do business in the State of Ohio.
30. **Liability for Bid Preparation**: The Board, and any officers, employees, successors, administrators or agents of same, assume no responsibility nor liability for costs incurred in the preparation and/or submission of any Bid.

31. **Bid Proposal Duration**: No Bid shall be withdrawn after it has been deposited with the Board. By submitting your Bid you agree to leave your Bid proposal firm for sixty (60) days after the Bid opening date unless some other duration is specified in the Bid Document.

32. **Sample Contracts**: The Bid Document may contain a sample contract document. If so, such contract document is an example of the contract document that the successful Bidder will be required to sign to evidence the Agreement between the successful Bidder and the Board stemming from this Bid solicitation. Alternative contract documents submitted by the Bidder will not be accepted. The Board shall fill in all blanks contained in the sample before such document is presented to the successful Bidder for signature. Additionally, only one version of any multiple versions paragraphs appearing in the sample shall be in the contract document presented to the successful Bidder for signature. In the rare case of an error in the Bid Document, the actual contract document presented to the successful Bidder may differ from the sample.

--- End Instructions to Bidders ---
REQUIRED INFORMATION FOR BIDDERS

Proposers are required to enter prices in the following pricing pages and complete the attached checklist. Prices are to be FOB Delivered, all freight and delivery charges paid by the contractor. All charges are to be included in the prices entered and Montgomery County is not liable for any additional charges including sales or use taxes. Prices are firm for the initial contract period. By signing the documents the proposer agrees to all the included terms and conditions unless written exceptions are taken. Any exceptions may deem your bid as unresponsive and may be disqualified unless accepted by Montgomery County.

Proposers shall complete and sign enclosed Forms #3, #4, and all other requested information. Failure to provide requested information may cause your proposal to be disqualified.

Two (2) complete copies and one (1) electronic pdf copy (flashdrive) of the bid documents that contain information on the items that you are bidding on and all submittals, including technical, illustrative, descriptive literature and/or brochures must be supplied. If the proposal and submittals are large, place the bid package in a larger envelope or box and CLEARLY identify the OUTERMOST Package with the SOLICI TATION NUMBER & Information. Failure to provide the required number of copies may cause to reject your bid.

A copy of the Supply or Service Agreement is attached. The Supply or Service Agreement will be signed and executed by the successful proposer as part of the award process.

If your company is equipped to handle documents electronically please provide an acceptable email address to receive documents electronically on the final bidding page. Email addresses will be used solely for the purposes of providing documentation related to bids, contracts or other purchasing requirements. Bids can be viewed electronically at http://www.mcohio.org/services/purchasing/bids/
Information to Vendor

Montgomery County is requesting competitive bids for the following commodity: 
**Radiation Detection Pagers** as listed and described below.

The radiation detection pagers will be deployed by Homeland Security law enforcement officials 
in order to detect the presence, source, and levels of radiation in an area.

These items will be used in part during large events in order to keep a location secure from 
radiological or nuclear threats.

Equipment must be easily portable and deployable as well as have options to alert in a subtle 
manner to prevent undue alarm from nearby citizens. Please see specifications for additional 
requirements.

Montgomery County reserves the right to purchase additional units at the price extended in this 
proposal.

Contact Person for **bid requirements**: Jacqueline Bailey (937)225-6404 
ballevi@mcohio.org

Only written questions will be accepted and must be received **no later than Monday, January 14, 2019 at 1:30 PM local time at the e-mail listed above**. Delivery and Invoicing of all items 
must be completed and submitted to EMA **no later than Friday, March 15, 2019**.

ALL INVOICES shall be “BILLED TO”:
Montgomery County Office of Emergency Management
117 S. Main St., Suite 721
Dayton, OH 45402
PRODUCT SPECIFICATIONS:

Qualifications & References
Bidders shall have significant experience in the manufacture of radiation detection equipment. A statement of qualification, company history, and information regarding the experience and qualifications of the Bidder is required.

Bidders must provide a list of at least three references. References are to include: name, address, contact, title, telephone number, and purchase date.

Technical Literature
Bidders shall furnish product literature or statements with their bid that demonstrate their product meets or exceeds specifications listed in this solicitation.

Delivery
Delivery shall be f.o.b. destination freight included. Bid pricing shall include all delivery, handling and shipping charges to the following location:

Montgomery County Office of Emergency Management
117 S. Main St., Suite 721
Dayton, OH 45402

The radiation detection pagers will be deployed by law enforcement officials in Ohio Homeland Security Region 3 in order to detect the presence, source, and levels of radiation in an area. These items will be used in part during large events in order to keep a location protected from nuclear or radiological threats (e.g., dirty bombs). Equipment must be easily portable and deployable. It also must have options to subtly alert in order to prevent undue alarm from the public. Please see specs for additional requirements.

The Office of Emergency Management plan to purchase between 10 and 30 pagers with the option to purchase either 20% more or less of the pagers at the quoted price. The purpose of these pagers is to detect and identify the radioactive material present and alert law enforcement officers.

Each pager must come equipped with the following:
- A holster that can be clipped to a belt
- A cord that can transfer data from the pager to a computer

Pagers must include the specifications listed below and documentation provided must clearly include the following:
- Be able to operate for a minimum of 500 hours between charges or replacement batteries
- Have an option to plug in to power source for continuous use
- Pager should not exceed 10 ounces
- Pagers must be smaller than 5"x2" Is this still needed
- Be shock resistant
- Come with charging accessories cable and/or charging unit(s)
- Comes with a spare battery
- Meet IP65 standard for dust and water resistance
- Provide documentation verifying pager meets these standards
- Vibrate to alert for high levels of radiation
- Have a flashing light option that can be turned on and off for high noise environments
- Be able to provide an identification of a radiological source within 5 minutes
- Have a digital display screen
- Include a three (3) year minimum warranty
- Be able to work in all types of environments and weather conditions
- Be able to store data for at least 24 hours and offload data onto a computer via a wired connection
- Meet ANSI 42.33/1, 42.32 and IEC 62401 for level of detection and durability (all standards available at https://www.ansi.org/) and provide documentation verifying pager meets these standards
- Must be able to detect gamma & neutron radiation
- Be able to determine if radiation is medical, background, natural, or illicit
- Have an option to simplify information presented in order to accommodate infrequent users
- Have a screen that is front facing, not top mounted
- Be capable of operating within a vehicle
- Have locking keyboard to prevent accidental settings reconfiguration
- Must provide at least one test kit with purchase
## PRICE PAGE

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Description</th>
<th>Price (Each)</th>
<th>Price Extended (at largest quantity on each line-10, 20, 30)</th>
</tr>
</thead>
<tbody>
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<td>0-10</td>
<td>Radiation Detection Pagers</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>11-20</td>
<td></td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>21-30</td>
<td></td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

Manufacturer: Thermo Eberline LLC  
Model:  

Solicitation requests many variations of pricing that cannot be summarized on an EA basis. Please see detailed quote attached which includes pricing for 30 SPRDs, Warranty, Freight, Accessories, and other charges.  
Grand Total $    

### Warranty Information
See Attached Warranty Terms  

Bidding Company: Thermo Eberline LLC  

Montgomery County anticipates the purchase of a minimum of 10 pagers. Will additional units be available for purchase at the same price?  

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td></td>
<td>X</td>
<td>YES</td>
</tr>
</tbody>
</table>

How long is this price firm?  90 days  

What is the radius of the detection area?  See Technical Response  

How many hours of operation does the pager provide until recharging and/or battery replacement?  See Technical Response
Complete the following questions and check off (X) the appropriate response. Failure to answer all questions on the following page(s) may cause to reject your bid as non-responsive. It is the responsibility of the bidder to identify and explain all exceptions to these specifications. Montgomery County will not accept any deviation from the specifications, which is not identified and explained in the bidder’s proposal.

1. Exceptions to specifications?
   - X Yes □ No (If yes, a complete list of any and all exceptions MUST be attached to your bid to receive consideration)

2. Warranty Information Enclosed?
   - X Yes □ No

3. The ORIGINAL BID COPY is the first or top copy in your bid envelope or package?
   - X Yes □ No

4. Vendor has completed and is submitting forms #3 and #4?
   - X Yes □ No

5. Vendor has read, understands and accepts the attached GENERAL CONDITIONS (pages 2 thru 5)?
   - X Yes □ No

6. Vendor has read and understands the attached Supply/Service Agreement?
   - X Yes □ No

7. Prices include any and all delivery charges?
   - X Yes □ No

8. All equipment meets ANSI 42.33/1, 42.32 and IEC 62401 for level of detection and durability standards?
   - X Yes □ No

9. All equipment meets IP65 standards for dust and water resistance
   - X Yes □ No

10. Pager has a front facing (not top mounted screen)?
    - X Yes □ No

11. Lead time for delivery of equipment?
    - X Yes □ No

12. References Included as required?
    - X Yes □ No

13. Is proposer a small business, minority business, women’s business enterprise or labor surplus area firm as per CFR 200.318-200.326?
    - □ Yes  X No

Bidding Company: Thermo Eberline LLC
This page MUST BE Returned as part of Bid Packet!
SIGNATURE SECTION:
The undersigned hereby certifies that any services, materials and/or equipment furnished as a result of this bid will be in full accordance with Montgomery County Specifications applying thereto, unless exceptions are stated above.

Bidding Company  Thermo Fiberline LLC

Address  27 Forge Parkway

Franklin, MA 02038

Phone 800-274-4212

Email matt.quinn@thermofisher.com

Print or Type Name Matthew Quinn

Title Contracts Manager

Signature __________________________ (Blue Ink)

With this signature I hereby certify that I am authorized as an agent for the above named company and offer this Bid with intention to enter into a contract with Montgomery County if awarded.

Bidding Company  Thermo Fiberline LLC

This page MUST BE Returned as part of Bid Packet
DISCLOSURE POLICY

The Board of County Commissioners of Montgomery County, Ohio, has adopted a disclosure policy which requires persons or business contracting with the Board of County Commissioners of Montgomery County, Ohio, to disclose to the Board any business and/or family relationship which the contracting party has with any public official, or person employed by any public official in Montgomery County, Ohio. Immediate family relationships, for disclosure purposes, are defined as spouse; children; parents (natural and by-law); and siblings (natural and by-law). Disclosure of this information will not necessarily preclude the award of a contract to the undersigned. The undersigned party, in accordance with intent of resolution No. 83-112 agrees to disclose, to the best of its knowledge and ability, the following information.

CORPORATION
The identity of any county Official, County employee, or member of a county official or county employee's immediate family, who hold(s) a position of responsibility being defined as a position having decision making capacities including but not limited to a member of the board of directors, officer of the corporation, or trustee;

PARTNERSHIP
The identification of person(s) employed by the partnership and or the name(s) of any of the immediate family who is, or who are, also simultaneously employed by any public official of Montgomery County, Ohio, or public office or agency of Montgomery County, Ohio;

CONSULTANT
The identification of person(s) employed by the consultant and or the name(s) of the consultant's immediate family who is, or who are, also simultaneously employed by any official of Montgomery County, Ohio, or public office or agency of Montgomery County, Ohio;

Should the undersigned party have knowledge or information concerning the above categories, the undersigned party is to submit this acknowledgement form with a detailed explanation of the names of the parties involved and the particular relationship. Please check the appropriate box.

☐ DOES NOT APPLY

☐ DOES APPLY WITH EXPLANATION ATTACHED

SIGNATURE

TITLE Contracts Manager
NOTE: This form only pertains to companies or businesses having property within Montgomery County, and possible delinquent personal property taxes owed by them to Montgomery County. Bidders who do not have property within Montgomery County are to mark this form as N/A (Not Applicable), sign it, have it notarized, and return it with the bid documents. This form must be completed and returned.

STATE OF MASSACHUSETTS:
COUNTY OF Middlesex

To the Auditor of Montgomery County:

The affiant, Thermo Fisherline LLC
(name of person, organization, or company)

located at 27 Forge Parkway, Franklin, MA 01876
(address)

After being duly sworn, states the following: The affiant, at the time the bid for

Radiation Detection Pagers

was submitted (check one): Not Applicable

☐ Was not charged with any delinquent personal property
taxes on the general tax list of Montgomery County, Ohio

☐ Was charged with delinquent personal property taxes
on the general tax list of Montgomery County, Ohio in
the principal amount of $___________, with the
sum of $___________ added for due and unpaid
penalties and interest.

Further the affiant sayeth naught,
Sworn to and subscribed by Matthew Quinn
(name of person, organization, or company)
on this _______ day of ________ 20 ______

[Signature]

STATE OF MASSACHUSETTS:
COUNTY OF Middlesex

Before me, a notary public, on this _______ day of ________ 20 ______

Personally appeared Matthew Quinn

the affiant in the foregoing affidavit, who acknowledged the signing thereof to be ______ voluntary act and deed.

In testimony whereof, I have hereto subscribed by name and affixed my seal on this day and year aforesaid.

[Signature]

Notary Public

HEIDI MINOR
Notary Public

Commonwealth of Massachusetts
My Commission Expires
October 9, 2020
# Sales Quotation

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<th>Created Date</th>
<th>Exp. Delivery Terms</th>
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<td>00167943</td>
<td>01/17/2019</td>
<td>ARO</td>
<td>1/7</td>
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**Contact:**

- **Name:** Frank Bocco
- **Phone:** +1 2572947874
- **Payment Terms:** Net 30 Pending Approval
- **Valid To:** 05/31/2016

**Inso Terms:**

- **FCB Destination:** Dayton, OH
- **Shipping Method:** Fed Ex

---

**Submitted To:**

Ms. Jacqueline Bailey  
Montgomery County Dayton Fire Department  
117 S. Main St., Suite 721  
Dayton, Ohio 45402  
United States  

- **Phone:** (937) 226-6604  
- **Email:** bailey@moohio.org

---

**Thank you for your interest in Thermo Scientific Instrumentation**

---

**To place an order:**  
- **Contact:** Thermo HWSI Customer Service Franklin  
- **Phone:** (800) 274-4212  
- **Fax:**  
- **Email:** customerservice.rmsi@thermofisher.com  

Additional instructions, terms & conditions on last page

---

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<th>Pos.</th>
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<td>1.00</td>
<td>4250817</td>
<td>RedEye SPRD (New Version)</td>
<td>USD 2,432.75</td>
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<td>USD 72,982.50</td>
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RedEye SPRD, Pocket-sized personal radiation detector: Call(T)able with SPM, gamma detection, nuclide identification and energy compensated close rate calculation (60 keV to 3.0 MeV); measuring range 1 µR/h – 250mR/h  

Each SPRD ships with one set of 2 each AAA Alkaline Batteries.

| 2.00 | 425067040 | RedEye Accessories | USD 38.85 | 30 | USD 1,165.50 |


| 3.00 | RMSI MISC-Spare | RMSI MISC-Spares | USD 0.00 | 30 | USD 0.00 |

- **RMSI MISC-Spare**
  - Meets specification: Comes with a spare battery. 2 spare AAA Alkaline Batteries included with each RedEye SPRD.

| 4.00 | 425037050 | RedEye Accessories | USD 52.73 | 30 | USD 1,581.75 |

- **Desktop holder for RedEye (data cable not included)**

| 5.00 | 4254020 | RedEye Accessories | USD 250.88 | 30 | USD 7,526.25 |

- **Data cable USB for FH 40 G or RedEye desktop holder 425057060**
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**Additional Comments:** Montgomery County Office of Emergency Management SO800019, Radiation Detection Pagers (REBID) Wednesday, Bid Due January 23, 2010

**RFQ Number:** SO800019, Radiation Detection Pagers (REBID)
Unless otherwise specified. All prices are FOB Origin and do not include shipping. Shipping charges will be Pre Paid and Added to Invoice. For FOB Destination, please add 4% to order.

Acceptance of Purchase

By signing below, you (i) warrant that you are an authorized representative of your company, (ii) agree that the Change to Thermo Fisher Scientific LLC Terms and Conditions of Sale attached hereto (the "Terms and Conditions") shall supersede any pre-printed terms and conditions, in their entirety, contained in any purchase order that your company issues and (iii) the Terms and Conditions shall exclusively govern the transaction(s) contemplated hereby.

Signature of authorized company representative

Date

Phone#

Print Name

Title

Email

Model #

Amount + S&H

Purchase Order Number

Email To:
CustomerService.rmi@thermofisher.com

Fax to: 1-568-520-2816

Remit check Payment To:
Thermo Fisher Scientific LLC
PO Box 742857
Atlanta, GA 30374-2857

Payment Details

Method of Payment
☐ PO Number

☐ Credit Card
☐ Check
☐ Wire Transfer

**Please contact your customer service representative with your credit card information. (Do not send any credit card info via email or fax)**
Address Verification

Please make corrections if necessary below:

Bill to:
117 S. Main St., Suite 721
Dayton, Ohio 45402
United States

Ship to:
117 S. Main St., Suite 721
Dayton, Ohio 45402
United States
THermo eBwebsite LLC, part of THERMO FISHER SCIENTIFIC
TERMS AND CONDITIONS OF SALE

1. GENERAL. Thermo Eberline LLC ("Seller") hereby offers for sale to the buyer named on the face hereof ("Buyer") the products listed on the face hereof (the "Products") on the express condition that Buyer agrees to accept and be bound by the terms and conditions set forth herein. Any provisions contained in any document issued by Buyer are expressly rejected and if the terms and conditions in this Agreement differ from the terms of Buyer's offer, this document shall be construed as a counter offer and shall not be effective as an acceptance of Buyer's document. Buyer's receipt of Products or Seller's commencement of the services provided hereunder will constitute Buyer's acceptance of this Agreement. This is the complete and exclusive statement of the contract between Seller and Buyer with respect to Buyer's purchase of the Products. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless in writing and signed by Seller and Buyer. Seller's failure to object to terms contained in any subsequent communication from Buyer will not be a waiver or modification of the terms set forth herein. All orders are subject to acceptance in writing by an authorized representative of Seller.

2. PRICE. All prices published by Seller or quoted by Seller's representatives may be changed at any time without notice. All prices quoted by Seller or Seller's representatives are valid for thirty (30) days, unless otherwise stated in writing. All prices for the Products will be as specified by Seller or, if no price has been specified or quoted, will be Seller's price in effect at the time of shipment. All prices are subject to adjustment on account of specifications, quantities, raw materials, cost of production, shipment arrangements or other terms or conditions which are not part of Seller's original price quotation.

3. TAXES AND OTHER CHARGES. Prices for the Products exclude all sales, value added and other taxes and duties imposed with respect to the sale, delivery, or use of any Products covered hereby, all of which taxes and duties must be paid by Buyer. If Buyer claims any exemption, Buyer must provide a valid, signed certificate or letter of exemption for each respective jurisdiction. Buyer shall pay Seller such surcharges, or other fees, in respect of the sale of Products hereunder as Seller deems necessary and appropriate (in Seller's sole, good-faith, reasonable discretion) to account for changes in the cost to product, develop, market, or sell the Products to Buyer hereunder (whether as the result of the imposition of tariffs or otherwise). All such surcharges must be paid by Buyer in accordance with the payment terms set forth herein. Buyer agrees that such surcharges, or other fees, may be assessed, or otherwise charged to Buyer by Seller hereunder. Seller reserves the right to require from Buyer full or partial payment in advance, or other security that is satisfactory to Seller, at any time that Buyer believes in good faith that Buyer's financial condition does not justify the terms of payment specified. All payments shall be made in U.S. Dollars.

4. TERMS OF PAYMENT. Seller may invoice Buyer upon shipment for the price and all other charges payable by Buyer in accordance with the terms on the face hereof. If no payment terms are stated on the face hereof, payment shall be net thirty (30) days from the date of invoice. If Buyer fails to pay any amount when due, Buyer shall pay Seller interest thereon at a periodic rate of one and one-half percent (1.5%) per month (or, if lower, the highest rate permitted by law), together with all costs and expenses (including without limitation reasonable attorneys' fees and disbursements and court costs) incurred by Seller in collecting such overdue amounts or otherwise enforcing Seller's rights hereunder. Seller reserves the right to require from Buyer full or partial payment in advance, or other security that is satisfactory to Seller, at any time that Seller believes in good faith that Buyer's financial condition does not justify the terms of payment specified. All payments shall be made in U.S. Dollars.

5. DELIVERY; CANCELLATION OR CHANGES BY BUYER. The Products will be shipped to the destination specified by Buyer, F.O.B. Seller's shipping point. Seller will have the right, at its election, to make partial shipments of the Products and to invoice each shipment separately. Seller reserves the right to stop delivery of Products in transit and to withhold shipments in whole or in part if Buyer fails to make any payment to Seller when due or otherwise fails to perform its obligations hereunder. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is due to any cause beyond Seller's reasonable control. In the event of a delay due to any cause beyond Seller's reasonable control, Seller reserves the right to terminate the order or to reschedule the shipment within a reasonable period of time, and Buyer will not be entitled to refuse delivery or otherwise be relieved of any obligations as the result of such delay. Products as to which delivery is delayed due to any cause within Buyer's control may be placed in storage by Seller at Buyer's risk and expense and for Buyer's account. Orders in process may be canceled only with Seller's written consent and upon payment of Seller's cancellation charges. Orders in process may not be changed except with Seller's written consent and upon agreement by the parties as to an appropriate adjustment in the purchase price therefor. Credit will not be allowed for Products returned without the prior written consent of Seller.

6. TITLE AND RISK OF LOSS. Notwithstanding the trade terms indicated above and subject to Seller's right to stop delivery of Products in transit, title to and risk of loss of the Products will pass to Buyer upon delivery of possession of the Products by Seller to the carrier; provided, however, that title to any software incorporated within or forming a part of the Products shall at all times remain with Seller or the licensor(s) thereof, as the case may be.

7. WARRANTY. Seller warrants that the Product will operate or perform substantially in conformance with Seller's published specifications and be free from defects in material and workmanship, when subjected to normal, proper and intended usage by properly trained personnel, for the period of time set forth in the product documentation, published specifications or package inserts. If a period of time is not specified in Seller's product documentation, published specifications or package inserts, the warranty period shall be one (1) year from the date of shipment to Buyer for equipment and ninety (90) days for all other products (the "Warranty Period"). Seller agrees during the Warranty Period, to repair or replace, at Seller's option, defective Products so as to cause the same to operate in substantial conformance with said published specifications; provided that Buyer shall (a) promptly notify Seller in writing upon the discovery of any defect, which notice shall include the product model and serial number (if applicable) and details of the warranty claim; and (b) after Seller's review, Seller will provide Buyer with service data and a Return Material Authorization ("RMA"), which may include biohazard decontamination procedures and other product-specific handling instructions, then, if applicable, Buyer may return the defective Product to Seller with all costs prepaid by Buyer. Replacement parts may be new or refurbished, at the election of Seller. All replaced parts shall become the property of Seller. Shipment to Buyer of repaired or replacement Products shall be made in accordance with the Delivery provisions of the Seller's Terms and Conditions of Sale. Consumables are expressly excluded from this warranty. Notwithstanding the foregoing, Products supplied by Seller that are obtained by Buyer from an original manufacturer or third party supplier are not warranted by Seller, but Seller agrees to assign to Buyer any warranty rights in such Product that Seller may have from the original manufacturer or third party supplier, to the extent such assignment is allowed by such original manufacturer or third party supplier. In no event shall Seller have any obligation to make repairs, replacements or corrections required, in whole or in part, as the result of (i) normal wear and tear, (ii) accident, disaster or event of force majeure, (iii) misuse, fault or negligence of or by Buyer, (iv) use of the Product in a manner for which they were not designed, (v) changes, or other to the Products such as, but not limited to, power failure or electrical power failure; or (vi) Improper storage and handling of the Products or (vii) inadequate combination with equipment or software not supplied by Seller. If Seller determines that Products for which Buyer has requested warranty services are not covered by the warranty hereunder, Buyer shall pay or reimburse Seller for all costs of investigating and responding to such request at Seller's then prevailing time and
materials. If Seller provides repair services or replacement parts that are not covered by this warranty, Buyer shall pay Seller therefor at Seller's then prevailing then prevailing materials and labor rates. NO WARRANTIES, SPECIFICATIONS, RELOCATION, REPAIR, SERVICE, REPAIR OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN SELLER WITHOUT SELLER'S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS NOT SUPPLIED BY SELLER, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE EFFECTED PRODUCTS. THE OBLIGATIONS CREATED BY THIS WARRANTY STATEMENT TO REPAIR OR REPLACE A DEFECTIVE PRODUCT OR SHALL BE THE SOLE REMEDY OF BUYER IN THE EVENT OF A DEFECTIVE PRODUCT. EXCEPT AS EXPRESSLY PROVIDED IN THIS WARRANTY STATEMENT, SELLER DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER DOES NOT WARRANT THAT THE PRODUCTS ARE ERROR-FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT.

6. INDEMNIFICATION. 6.1 By Seller. Seller agrees to indemnify, defend and save Buyer, its officers, directors, and employees from and against any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs and expenses (including without limitation reasonable attorney's fees) ("Indemnified Items") for (i) injury to or death of persons or damage to property to the extent caused by the negligence or willful misconduct of Seller, its employees, agents or contractors in connection with the services at Buyer's premises under this Agreement and (ii) claims that a Product infringes any valid United States patent, copyright or trade secret, provided, however, Seller shall have no liability under this Section to the extent any such Indemnified Items are caused by either (i) the negligence or willful misconduct of Buyer, its employees, agents or contractors; or (ii) by any third party, (iii) use of a Product in combination with equipment or software not supplied by Seller with the Product; or would not itself be infringing, (iv) compliance with Buyer's designs, specifications or instructions, (v) use of the Product in any environment for which it was not designed or (vi) modifications of the Product by anyone other than Seller without Seller's prior written approval. Buyer shall provide Seller prompt written notice of any third party claim covered by Seller's Indemnification obligations hereunder. Seller shall have the right to assume exclusive control of the defense of such claims or, at the option of the Seller, to settle the same. Buyer agrees to cooperate reasonably with Seller in connection with the performance by Seller of its obligations in this Section. Notwithstanding the above, Seller's Indemnification related indemnification obligations shall be extinguished and relieved if Seller, at its discretion and at its own expense (a) procures for Buyer the right, at no additional expense to Buyer, to continue using the Product; (b) replaces or modifies the Product so that it becomes non-Infringing, provided the modifications or replacement does not adversely affect the specifications of the Product; or (c) whereby (a) and (b) are not practical, refund to Buyer the amortized amount paid by Buyer with respect thereto, based on a fifteen (15) month amortization schedule. THE FOREGOING INDEMNIFICATION PROVISIONS SELLER'S ENTIRE LIABILITY TO BUYER FOR THE CLAIMS DESCRIBED HEREIN. 6.2 By Buyer. Buyer shall indemnify, defend with competent and experienced counsel and hold harmless Seller, its parent, subsidiaries, affiliates and divisions, and their respective officers, directors, shareholders and employees, from and against any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs and expenses (including without limitation reasonable attorney's fees and expenses) incurred by Buyer in connection with or arising from or in connection with (i) the negligence or willful misconduct of Product, its agents, employees, representatives or contractors; or (ii) use of a Product in combination with equipment or software not supplied by Seller where the Product itself would not be infringing; (iii) Seller's compliance with designs, specifications or instructions supplied to Seller by Buyer; or (iv) use of a Product in an application or environment for which it was not designed; or (v) modifications of a Product by anyone other than Seller without Seller's prior written approval.

9. SOFTWARE. With respect to any software products incorporated in or forming a part of the Products hereunder, Seller and Buyer intend and agree that such software products are being licensed and not sold, and that the words "purchase," "sell," or similar or derivative words are understood and agreed to mean "license," and that the word "Buyer" or similar or derivative words are understood and agreed to mean "licensee". Notwithstanding anything to the contrary contained herein, Seller or its licensor, as the case may be, retains all rights and interest in software products provided hereunder. Seller hereby grants to Buyer a royalty-free, non-exclusive, non-transferable license, without power to sublicense, to use software provided hereunder solely for Buyer's own internal business purposes on the hardware products provided hereunder and to use the related documentation solely for Buyer's own internal business purposes. This license terminates when Buyer's lawful possession of the hardware products provided hereunder ceases, unless earlier terminated as provided herein. Buyer agrees to hold in confidence and not to sell, transfer, license, loan or otherwise make available in any form to third parties the software products and related documentation provided hereunder. Buyer may not disassemble, decompile or reverse engineer, copy, modify, enhance or otherwise change or supplement the software products provided hereunder without Seller's prior written consent. Seller will be entitled to terminate this license if Buyer does not comply with any term or condition hereof. Buyer agrees, in the event of termination of this license, to immediately return to Seller all software products and related documentation provided hereunder and all copies and portions thereof. Certain of the software products provided by Seller may be owned by one or more third parties and licensed to Seller. Accordingly, Seller and Buyer agree that such third parties retain ownership of and title to such software products. The warranty and Indemnification provisions set forth herein shall not apply to software products owned by third parties and provided hereunder.

10. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE LIABILITY OF SELLER UNDER THESE TERMS AND CONDITIONS (WHETHER BY REASON OF BREACH OF CONTRACT, TORT, INDEMNIFICATION, OR OTHERWISE, BUT EXCLUSIVELY LIABILITY OF SELLER FOR BREACH OF WARRANTY (THE SOLE REMEDY FOR WHICH SHALL BE AS PROVIDED UNDER SECTION 7 ABOVE)) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE LESSER OF (A) THE TOTAL PURCHASE PRICE THEREOF PAID BY BUYER TO SELLER WITH RESPECT TO THE PRODUCTS GIVING RISE TO SUCH LIABILITY OR (B) ONE MILLION DOLLARS ($1,000,000), NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF REVENUE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF GOODWILL), REGARDLESS OF WHETHER SELLER (A) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (B) IS NEGLIGENT.

11. EXPORT RESTRICTIONS. Buyer acknowledges that each Product and any related software and technology, including technical information supplied by Seller or contained in documents (collectively "Ffitements"), is subject to export controls of the U.S. government. The export controls may include, but are not limited to, those of the Export Administration Regulations of the U.S. Department of Commerce (the "EAR"), which may restrict or require licenses for the export of items from the United States and their re-export from other countries. Buyer shall comply with the EAR and all other applicable laws, regulations, laws, treaties, and agreements relating to the export, re-export, and import of any item. Buyer shall not, without first obtaining the required license to do so from the appropriate U.S. government agency; (i) export or re-export any item, or (ii) export, re-export, distribute or supply any item to any restricted or embargoed country or to a person or entity whose privilege to participate in exports has been denied or restricted by the U.S. government. Buyer shall, if requested by Seller, provide information on the end user and end use of any item exported or to be exported by Buyer. Buyer shall cooperate fully with Seller in any official or unofficial audit or inspection related to applicable export or import control laws or regulations, and shall indemnify and hold Seller harmless from, or in connection with, any violation of this Section by Buyer or its employees, consultants, agents.

12. MISCELLANEOUS. (a) Buyer may not delegate any duties, nor assign any rights or claims hereunder without Seller's prior written consent, and any such attempted delegation or assignment shall be void. (b) The rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Seller's manufacturing location, without reference to its choice of law provisions. Each
party hereby irrevocably consents to the exclusive jurisdiction of the state and federal courts located in the county and state of Seller’s manufacturing location, in any action arising out of or relating to this Agreement and waives any other venue to which it may be entitled by domicile or otherwise. (e) In the event of any legal proceeding between the Seller and Buyer relating to this Agreement, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a right to a trial by jury. Any action arising under this Agreement must be brought within one (1) year from the date that the cause of action arose. (f) The application to this Agreement of the U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded. (g) In the event that any one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall remain in full force and effect, unless the revision materially changes the bargain. (h) Seller's failure to enforce, or Seller’s waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision. (i) Unless otherwise expressly stated on the Product or in the documentation accompanying the Product, the Product is intended for research only and is not to be used for any other purpose, including without limitation, unauthorized commercial uses, in vitro diagnostic uses, ex vivo or in vivo therapeutic uses, or any type of consumption by or application to humans or animals. (j) Buyer agrees that all pricing, discounts and technical information that Seller provides to Buyer are the confidential and proprietary information of Seller. Buyer agrees to (1) keep such information confidential and not disclose such information to any third party, and (2) use such information solely for Buyer’s internal purposes and in connection with the Products supplied hereunder. Nothing herein shall restrict the use of information available to the general public. (k) Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified herein or at such other address as either party may from time to time designate to the other. RETURN OF PRODUCTS/RESTOCKING CHARGE. Buyer must obtain permission from Seller prior to returning Products. The return must be received within ten (10) days of receipt of the Products. Older items, service parts, and discontinued items cannot be returned for credit, in order to obtain a RMA number, Buyer must contact Seller's customer support. Seller, in its discretion, may impose a twenty (20%) percent restocking charge of the price paid for any item authorized for return for credit. Doc# 126550v4 (Revised 05/20/08)
To: James Alford, Data Processing

From: Jeffrey Jordan, Office of Emergency Management

Date: February 6, 2019

Subject: Data Processing Board Agenda Request

This is a request for approval by the Data Processing Board to purchase Portable Radios and accessories from J & K. This equipment is being purchased for Homeland Security Region III Agencies. We will purchase up to 38 portable radios and accessories at a price not to exceed $60,000.00. We will purchase the portable radios using funds that are made available from FY16 State Homeland Security (SHSP) Regional grant for Homeland Security Region III. This project was sent out to bid out under SO800016. The Montgomery County Office of Emergency Management serves as the Signatory Official for the SHSP grant.

The radios will be used by various agencies within Homeland Security Region III. The radios will be used for the purpose of interoperable communications with neighboring counties and state partners. Homeland Security Region III is an eight county region that includes Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble and Shelby counties.

There are no services to be provided by Montgomery County Data Processing staff regarding this procurement. Should you have any questions or need additional information, please contact me at 937-224-8936. Thank you for your assistance in this matter.

Sincerely,

Jeffrey Jordan, Director
Montgomery County
Office of Emergency Management
Automatic Data Processing Board Checklist

Department: Emergency Management

Name: Jeffrey Jordan

Is the department purchasing off state term? Yes ☐ No ☐ STS#

Is the department purchasing off GSA? Yes ☐ No ☐ GSA#

Is this purchase considered an upgrade? Yes ☐ No ☐

Replacement? Yes ☐ No ☐

New Purchase? Yes ☐ No ☐

The amount of this purchase will not exceed. $60,000.00

The funding for this purchase will come from: 211621

Are there any integrations issues? Yes ☐ No ☐

If yes, explain:

Were your system specifications developed internally or by and outside vendor/source? Yes ☐ No ☐

The portable radio specification were developed using internal sources.

If outside vendor/source, identify:

Is this purchase being purchased off of a different contract? Yes ☐ No ☐

If yes, what is the contract number? SO800016

Who authorized this from the Purchasing Department?
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<th>Item ID</th>
<th>Description</th>
<th>UOM</th>
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<tr>
<td></td>
<td></td>
<td>VP5000 SERIES PORTABLE WITH P25 PHASE 1 TRUNKING, THREE YEAR WARRANTY</td>
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<tr>
<td>13.00</td>
<td>MISC</td>
<td>VP5430F2 7/800 MHz, Model 2, 1024 Ch, Black, Immersion, AR4 (ADP Compatible),</td>
<td>EA</td>
<td>$2,271.20</td>
<td>$29,525.60</td>
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<tr>
<td></td>
<td></td>
<td>Built In BlueTooth, Three Year Warranty</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>7/800 MHz 1/2 Wave Antenna, Li-ion 2000mAh (High Capacity) IS rated, P25 CAM-AMBE+2, P25 Phase 1 Trunking, TrueVoice Noise Cancellation, AES, DES, ADP Multi Key Encryption, Immersion, Three year Warranty</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13.00</td>
<td></td>
<td>Programming</td>
<td>EA</td>
<td>$50.00</td>
<td>$650.00</td>
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<tr>
<td>13 KSC-32</td>
<td></td>
<td>PROGRAMMING/SETUP RADIO</td>
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<td></td>
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<tr>
<td>13 KMC-54WDM</td>
<td></td>
<td>MIL-SPEC, IP67 (IMMERSION) SPEAKER, MIC. IS. RATED</td>
<td>EA</td>
<td>$104.00</td>
<td>$1,352.00</td>
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<tr>
<td>13 KNB-L55M</td>
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<td>BATTERY, CSA US Intrinsically Safe Battery, Li-ion, 2000mAh</td>
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<td>INTERCEPTOR-00 BLUE TOOTH SPEAKER, MIC</td>
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<td>3.00</td>
<td>MISC</td>
<td>EP1099SCST EARPIECE WITH CLEAR TUBE FOR THE SPEAKER, MIC</td>
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<td>$39.99</td>
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<td>3 TWGSM</td>
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<td>$485.00</td>
<td>$1,455.00</td>
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<td>3.00</td>
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<td>$600.00</td>
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<tr>
<td>13.00</td>
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<td>EA</td>
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<tr>
<td>13.00</td>
<td>MISC</td>
<td>PROMO DISCOUNT</td>
<td>EA</td>
<td>$(150.00)</td>
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| OPTIONAL: | | | | | |
| 0.00     | MISC   | MODEL 3 FULL KEYPAD                                                                             | EA  | $50.00  | $0.00 |
| 0        | BCKIT-VP5000/NX5000 | VP5000 LEATHER CASE, 5TH STABILIZER, AND 53-57 STABILIZER                                      | EA  | $79.00  | $0.00 |

Each assembly includes

<table>
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<th>Description</th>
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<th>Total</th>
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<tbody>
<tr>
<td>1</td>
<td>7207B</td>
<td>LEATHER CASE, BELT LOOP, PARTIAL Keypad, FOR VP5000/NX5000</td>
<td>$36.58</td>
<td>$36.58</td>
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<tr>
<td>Quantity</td>
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<td>Sell</td>
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<tr>
<td>----------</td>
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<td>--------------------------------------------------</td>
<td>-----</td>
<td>-------</td>
</tr>
<tr>
<td>1 135</td>
<td></td>
<td>LEATHER SHOULDER STRAP, LEATHER MIC LOOP, APPROX 57-52'</td>
<td></td>
<td>$29.92</td>
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<tr>
<td>1 135K</td>
<td></td>
<td>LEATHER ANTI-SWAY STRAP, 5'</td>
<td></td>
<td>$10.83</td>
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<tr>
<td>1 D-RINGS</td>
<td></td>
<td>C-RINGS FOR BACK UP (VP600/VP900)</td>
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<td>$1.67</td>
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</tbody>
</table>

Your Price: $37,290.57

Total: $37,290.57

Prices are firm until 6/7/2019
Terms: Net 30

Prepared by: Adam Hurley, ahurley@jkcomm.com
Date: 11/27/2018

Accepted by: ____________________________
Date: ____________________________

Disclaimer
All material is guaranteed to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra cost will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Worker's Compensation Insurance. Note: This proposal may be withdrawn by us if not accepted within 30 days.

We have redesigned our website... www.jkcomm.com, take a look and let us know what you think!
Memorandum

Date: February 25, 2019
To: James Alford, Director, Data Processing
From: Bethany Colby-Lauffenburger, IT Manager, BCC IT
Through: Jon Rike, Director, BCC IT
Re: DP Board Approval Request

Environmental Services is requesting DP Board approval to purchase from Emerge IT Solutions, 1895 Airport Exchange Blvd, Ste 170, Erlanger, KY 41018 off OAKS Contract ID 533110-3-84, two (2) - Cisco SG550XG-8F8T 16-Port 10G Stackable Managed Switches, one (1) - Nimble CS1000 Array and components along with professional services to install and transfer data. We need to replace the Spaulding Rd. SAN with a Nimble SAN that has 10GB access to the host servers and a larger capacity for storage. Speed and storage of existing SAN at ES is no longer sufficient for the needs of the department.

The hardware costs add up to $57,567.62 and $4,125.00 will be the costs for implementation and professional services. This total cost of $61,692.62 and will come out of the already approved Water/Sewer 2019 Budget.

Please review this request and add it to the March 13th DP Board meeting for approval.

cc: Hilliard
    Nelson
    Turnbull
    Asberry
Nimble Solution & Switches - Services only

Prepared for:
Montgomery County Water-Enviro Services

Monday, February 11, 2019

Quote # 025367
Opportunity # 25845

Emerge IT Solutions
1895 Airport Exchange Blvd, Ste 170
Erlanger, KY 41018

CONFIDENTIALITY NOTICE: This document contains information which may be confidential and/or legally privileged. The information contained therein is intended only for the individual or entity named on this document. If you are not the intended recipient you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this document is strictly prohibited and that the documents should be returned to Emerge immediately. The unauthorized disclosure, use or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.
## OAKS Contract ID 5331103-84

<table>
<thead>
<tr>
<th>Qty</th>
<th>Advanced Services</th>
<th>Price</th>
<th>Ext. Price</th>
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</thead>
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<tr>
<td>1</td>
<td>Implementation and Configuration</td>
<td>$4,125.00</td>
<td>$4,125.00</td>
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</tbody>
</table>

**Fixed Fee Pricing:** $4,125.00

**Project Summary:**
Montgomery County Water-Enviro Services has engaged Emerge IT Solutions, LLC to provide Design, Planning and Implementation of a Nimble CS1000 Array, and a pair of Cisco SG550x Switches for the iSCSI connections.

**Delivery Strategy:**
Emerge Engineering will unbox, inspect and rack the equipment. Next Emerge will cable the gear to the new switch and existing switching infrastructure. After configuring the iSCSI Network, the Nimble array will be provisioned and made accessible to the VMware Hosts. Once the hosts have access to both arrays (EMC and Nimble), the VM's will be migrated from the EMC to the Nimble.

The estimated duration of this project is 1-3 weeks from project start to completion. Project start and completion is contingent on Emerge Engineering Availability, Product Procurement, Client Availability, Client Responsiveness, and Site Readiness.

**Project Objectives:**
- New iSCSI and Host Network

**Project Deliverables:**
- New Nimble CS1000 Array
- As Implemented Network Documentation

**Solution Benefits:**
- Mitigated risk by leveraging a Certified and Experienced Solutions Provider.
- Faster storage, and more space

**Project Phases:**
- Project Kick Off Meeting
  - Introductions
  - SOW Review
  - Discussion Points
    - Roles and Responsibilities
    - Client Success Criteria for Post implementation testing
- Communication Plan
- Environment Access Needs
- Tentative Scheduling & Maintenance Window Requirements

- Phase 1: Discovery, Design, Design Acceptance and Planning
  - Technical Environment Discovery
  - Customer Interview Discovery
  - Meeting with the client to Obtain their Post Service Success Criteria for the creation and finalization of a Post Phase/Service Testing Plan, to be completed with the client.
  - Design Creation
  - Design Acceptance Review with Customer for Approval
  - Delivery Planning and Communication

- Phase 2: Equipment Installation
  - Unbox and Inspect Array and Switches
  - Rack and Cable Gear

- Phase 3: Switch Configuration
  - Configure Management Interfaces
  - Create Stack
  - Add iSCSI VLAN and Assign to Ports
  - Configure Trunk Ports for Hosts and Uplink to Meraki Core

- Phase 4: Nimble Configuration
  - Configure Management Networking
  - Configure iSCSI Ports
  - Test Connectivity
  - Create Volumes

- Phase 5: Configure VMware Hosts
  - Add Nimble iSCSI Targets to Hosts
  - Rescan HBA
  - Add Datastores
  - Test Read and Write
## Roles, Responsibilities and Assumptions

### Roles and Responsibilities:

- **Emerge** holds the responsibility to provide Design, Planning, & Implementation for the requested services based on Best Practice standards, and Client requirements.
- **Client** holds the responsibility of providing a single point of contact (SPOC) for the communication of project issues, concerns, and questions.
- **Client** is responsible for ensuring that Onsite and/or Remote Access will be available to the end Clients environment for this support. While onsite, the Physical Safety of the Service engineer, and Cooperation of employees and managers at the location to allow work to progress as described is also the responsibility of Client.
- **Client** is responsible for providing the Post Service Success Criteria, to be utilized for the creation of a Post Service Testing Plan. A testing plan should be created and validated prior to the start of any changes or cutovers within the environment. This plan should encompass all functionality needed for business operation. If no Success Criteria is provided, the Client will still be liable for testing all operation at the completion of any service prior to dismissing the engineer. Engineer dismissal will be considered acceptance of phase or services completion.
- **Client** is responsible for providing an operation knowledgeable resource to be available for post service/cutover testing during the service or maintenance windows established in the planning portion of this engagement. This resource should understand the needed functionality of the network and its applications for imperative business functionality and detailed testing.
- If applicable, **Client** holds the responsibility for adequate rack space, power, power distribution, appropriate cooling, patch and structured cabling within the environment for services to proceed as expected.
- If applicable, **Client** holds the responsibility to provide all required Hardware, Licensing, and Vendor Support Maintenance Agreements as they pertain to the services being provided.
- If applicable, **Client** holds the responsibility for the Physical Removal/Disposal of any Legacy or Decommissioned equipment upon completion of services. Emerge can provide this disposal at an Out of Scope charge billed separate of this engagement upon request.
- If applicable, **Client** is responsible for the scheduling and employee communication regarding any needed Maintenance Windows, Outages, Training, or any other Client facing communications pertaining to this service.
- If applicable, unless currently managed under an Emerge Managed Service Agreement, **Client** is responsible for ensuring Backup and Disaster Recovery Procedures are updated and verified prior to work beginning.
- If applicable, **Client** stakeholders hold the responsibility to be in attendance and responsive as needed for the project.

---

**Cincinnati | Dayton | Louisville**

**IT Infrastructure | Cloud Computing | Managed Services**

Emerge IT Solutions, LLC | 1895 Airport Exchange Blvd Suite 170 | Erlanger, KY | O (859) 746-1030 | F
proceed as planned through the duration of this engagement. Extended delays caused by Client unavailability, lack of response, or lack of site readiness will be considered Out of Scope of the engagement.

Assumptions:

- Upon signed receipt of the presented quote, this document will act as the Project Statement of Work for the duration of the engagement.
- Once Client has accepted the final design, all requested changes will be processed through the change management process prior to any changes of the design being made. This could result in Out of Scope Services of the presented pricing.
- Loss of prescheduled work time caused by construction, outside vendors, or the Client will be billed T&M Directly to the Client as Out of Scope and will be billed separately.
- This Quote/Scope of Work is hereby authorized as the governing document detailing the services to be performed by Emerge IT Solutions, Inc. for the Client, and is accepted as such by the Client. Any work not detailed in the above documentation is subject to authorization by Emerge and Client through written confirmation.
- A Project Manager is not included in the presented pricing. Emerge services will be coordinated by the Emerge Advanced Services team. Escalation should also be directed to the Emerge Advanced Services coordination team. Emerge engineering will handle Project Management otherwise, for the duration of this project.
  - Services are to be provided within the normal business hours of 8:00AM-5:00PM EST, Mon-Fri. Any services performed After hours or during Sunday/Holiday hours will be billed at the Out of Scope rates outlined above.
  - Progress Billing will take place within the following installments:
    - Installment #1 – 50% Invoiced at Completion of Project Kick Off
    - Installment #2 – 50% Invoiced at Project Completion
Out of Scope Support

Out of Scope Support:
Services requested outside of the Statement of Work will be billed at the Out of Scope rate established in the Client's Managed Services Agreement, in actual hours spent. (After hours & Sunday/Holiday rates are defined below). In the event a Client does not have a managed services agreement with Emerge, the Out of Scope rate will be $165.00 p/h for scheduled support. Any T&M services performed After hours or during Sunday/Holiday hours will be billed at their corresponding rates below.

- After hours, defined as after 5:00PM EST on weekdays, or Saturdays, will be billed at 1.5* the Client’s Out of Scope rate. After hours’ time is billed in One (1) Hours minimum, and Thirty (30) minute intervals after the initial hour.
- Sunday/Holidays (Holidays Defined by National Holiday, or Office Closure in recognition of a Holiday) will be billed at 2* the Client’s Out of Scope rate. Sunday/Holiday time is billed in Two (2) Hours minimum, and in Thirty (30) minute intervals after the initial 2 hours.

Unscheduled, High Priority, Quick Response Support requests will be considered Out of Scope and will require services to be billed at 1.5* the Client’s Out of Scope rate for scheduling. Scheduling is Best Effort per engineer availability, and the potential re-prioritization of current workload.
Contacting Emerge

Service Desk Phone:

- Contact Emerge @ 859-746-1030
  - BUSINESS HOURS (8am-5pm EST) - For IT Service hit Option 3. Caller is routed to the Help Desk.
  - AFTERHOURS SUPPORT (5pm-8am EST) - For IT Service hit Options 3, then Option 2, to speak to a Dispatch Manager. After Hours Rates Could apply based on your Service Contract.
- A service ticket is created, and an Engineer is assigned. The Service Engineer will then contact the Client for troubleshooting, or to schedule an ETA to come onsite for service, if needed.
- For any needed updates, questions, or concerns during business hours, our Clients can contact the Emerge Service Desk through the above steps. A Service Desk Representative will be happy to research and provide an update for you.

Help Desk Email - Not for Afterhours/Emergency Support:

- For service requests that Do Not require an immediate response, an email can be sent to HELPDESK@EMERGEITS.COM.
- Provide your Name, Contact Number, the Company you are with, and the Issue you are having. A service request is generated from this email and will be dispatched to a Service Engineer. The engineer will contact the Client to begin resolving the issue.

Escalations:

- Should the Client have any questions, comments, concerns, or support escalation needs, please reach out to the Emerge Project Services Coordination team for immediate assistance.
  - Chris Schmidt: Advanced Services Manager @ 859-746-1030 Ext: 3117
  - Scott Coleman: Lead Project Manager @ 859-746-1030 Ext: 3140

Please Note: If this is a Priority 1 Situation, calling the Help Desk @ 859-746-1030 will result in the Quickest Response. Email submittals will NOT be responded to until the Next Business Day.
Nimble Solution & Switches - Services only

Prepared by:

Emerge IT Solutions, LLC
April Sterling
859.746.1030
asterling@emergeits.com

Prepared for:

Montgomery County Water-Enviro Services
1850 Spaulding Rd.
Kettering, OH 45432
Tyler Small
(937) 225-6464
smart@mcjohio.org

Quote Information:

Quote #: 025367
Version: 1
Delivery Date: 02/11/2019
Expiration Date: 03/31/2019

### Quote Summary

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</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$4,125.00</strong></td>
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### Payment Options

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<tr>
<td>One Time Charge with Tax</td>
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<td>One-Time</td>
<td>$4,125.00</td>
</tr>
</tbody>
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All Invoices Outstanding Beyond 30 Days Will Be Charged A Finance Charge of 1% Each Month Past Due. Any freight incurred will be added to the invoice.

Montgomery County Water-Enviro Services

Signature: __________________________

Name: Tyler Small

Title: __________________________

Date: __________________________

Returns must be initiated within 30 days of product delivery. To be eligible for a return, items must be unused and in the original packaging.
EMERGE
MASTER TERMS AND CONDITIONS

This Master Terms and Conditions Agreement ("MTCA") is entered into between Emerge Managed Solutions, LLC and its affiliates (collectively, "Emerge") and Client, as defined herein. In consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions
   (a) Agreement. "Agreement" means this MTCA, any and all Service Order Forms entered into by the parties from time to time, which are made a part hereof, and any addendums, schedules, exhibits and/or appendices attached thereto or hereeto.
   (b) Client. "Client" means the client identified on the applicable Service Order Form.
   (c) Client Equipment. "Client Equipment" means all Equipment other than Emerge Equipment.
   (d) Confidential Information. See Section 3.
   (e) Equipment. "Equipment" means all hardware, software, equipment, tools, or other tangible personal property.
   (f) Emerge Equipment. "Emerge Equipment" means all Equipment supplied or used by Emerge in connection with performance of the Services.
   (g) Service Order Form. "Service Order Form" means a separately executed document that describes Services to be purchased by Client, including any fees, charges, and additional terms that may apply.
   (h) Services. "Services" means those services that Emerge provides to Client pursuant to, and as more fully described in, one or more Service Order Forms entered into and made a part hereof.

2. Fees and Payments
   (a) Fees. For the Services, Client shall pay the fees set forth on the Service Order Form. Except as set forth on the Service Order Form, regardless of whether Client has commenced use of the Services, (i) Client's payment obligations for the Services shall commence on the date on which the applicable Service is first provisioned by Emerge and made available for use by Client, or (ii) at such time as Emerge begins agreed upon work to prepare for such provisioning. Except as otherwise provided on the Service Order Form, on each anniversary of the aforementioned date, the fees will increase by 10%. Notwithstanding the foregoing, to the extent software license providers increase Emerge's costs, Emerge has the right to increase the fees charged to Client hereunder in direct proportion to the cost increase effective as of the next calendar month following the cost increase. Emerge shall provide notification to Client prior to any price increase associated with software licenses.
   (b) Taxes. All fees and charges hereunder shall be exclusive of, and Client shall be solely responsible for, any applicable taxes or levies, whether now in force or enacted in the future, applicable to the delivery of the Services hereunder, except for taxes attributable to the net income of Emerge.
   (c) Payment Terms. All recurring charges shall be due and payable in advance no later than the first business day of the month. All non-recurring charges shall be due as provided on the associated Service Order Form. Unless waived in writing by Emerge, late payments will accrue interest at the lesser of 1.5% per month or the highest rate permitted by law. If Client is late with more than one payment, Emerge may, upon written notice to Client, require a security deposit or other reasonable assurances to secure Client's payment obligations hereunder. All costs associated with collecting delinquent payments, including reasonable attorney's fees, shall be added to the unpaid balance and paid by Client.

3. Confidentiality
   (a) Confidential Information. "Confidential Information" means any and all tangible and intangible information (whether written or otherwise recorded or oral) of the disclosing party that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertained by proper means by, other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or (ii) the disclosing party designates as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information of Emerge includes, without limitation, the pricing and terms of the Agreement. Neither party shall use for its own account or the account of any third party, nor disclose to any third party, any of the other party's Confidential Information. This Section 3 is intended to cover Confidential Information received by the either party both prior and subsequent to the date hereof.
   (b) Exceptions. Notwithstanding the above, the term "Confidential Information" shall not include any information that is: (i) available from public sources or in the public domain, through no fault of the receiving party; or (ii) received at any time from any third party who, to the best of the receiving party's knowledge, has no non-disclosure obligation to the disclosing party; or (iii) readily discernible from publicly-available products or literature; or (iv) approved for disclosure by prior written permission of a corporate officer of the disclosing party.
   (c) Compelled Disclosures. The receiving party may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law, provided that the receiving party (i) gives the disclosing party reasonable written notice to allow the disclosing party to seek a protective order or other appropriate remedy (except to the extent the receiving party's compliance with the foregoing would cause it to violate a court order or other legal requirement), (ii) discloses only such information as is required by the governmental entity or otherwise required by law, and (iii) and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.
   (d) Survival. Notwithstanding anything else to the contrary in the Agreement, all obligations under this Section 3 shall survive for two (2) years from any termination or expiration of this MTCA.

4. Limitations and Disclaimers
   (a) Equipment. If Client purchases any Equipment from Emerge, the Equipment is provided to Client "as is, where is." If the manufacturer provides a warranty on the Equipment, Client shall be considered the record owner of the Equipment for purposes of such warranty, to the extent such warranty follows the Equipment. Client's only recourse for any issue with the Equipment lies with the manufacturer.
   (b) Service Warranty. Unless otherwise provided in a Service Order Form, the Services are provided on an AS-IS basis.
   (c) Disclaimer. THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CLIENT'S USE OF THE SERVICES AND ANY EMERGE EQUIPMENT OR FACILITIES IS AT ITS OWN RISK. EMERGE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT AS EXPRESSLY DESCRIBED ELSEWHERE IN THE AGREEMENT, CLIENT
ASSUMES ALL RISK OF LOSS OR DAMAGE ASSOCIATED WITH THE SERVICES, INCLUDING ANY LOSS OR DAMAGE TO DATA STORED AT OR TRANSFERRED THROUGH ANY EMERGE FACILITY OR EMERGE EQUIPMENT. The Services do not constitute a bailment.

(d) Consequential Damages Waiver. In no event will either party be liable or responsible to the other party for any type of incidental, punitive, indirect or consequential damages, including, but not limited to, lost revenue, lost profits, replacement goods, loss of technology, rights or services, loss of data, interruption or loss of use of Services or Equipment, arising from or relating to the Agreement or the Services, even if advised of the possibility of such damages, whether arising under any theory of contract, tort (including negligence), strict liability, or otherwise.

(e) Limitation of Liability. Except for the willful misconduct or gross negligence of Emere, Emere will not be liable for unauthorized access to Client’s Equipment or for unauthorized access to or alteration, theft or destruction of Client’s data files, programs, procedures or information through accident, fraudulent means or devices, or any other method. Emere’s liability for damages to Client for any cause whatsoever, regardless of form of action, shall be limited to the amounts paid by Client to Emere in respect of the Services giving rise to the claim in the one (1) year prior thereto.

5. Term and Termination

(a) Term. Unless otherwise provided in the Service Order Form, the term of this MTCA will commence on the date the last of the parties hereto signs this MTCA and shall terminate upon the first to occur of (i) the one year anniversary of the commencement date of this MTCA, or (ii) the expiration or termination of the last outstanding Service Order Form under the Agreement. A termination of the MTCA shall be deemed a termination of the Agreement. The term of each Service Order Form shall commence on the effective date set forth on the Service Order Form and continue for the initial term set forth on the Service Order Form (the “Initial Term”), except that, if the Initial Term would ordinarily expire other than on the last day of a calendar month, the Initial Term shall extend through the end of that calendar month. Thereafter, each Service Order Form shall automatically renew for successive additional terms of one (1) year (each a “Renewal Term”), unless either party provides at least sixty (60) days prior written notice to the other party of its intent to terminate the applicable Service Order Form as of the end of the then current term.

(b) Termination: Suspension.

(i) Either party may terminate a Service Order Form if the other party materially breaches any term or condition of the Service Order Form and fails to cure such breach, if capable of cure, within thirty (30) days after receipt of written notice of the same. If Emere terminates a Service Order Form on account of a breach by Client, as provided in the applicable Service Order Form, Client shall pay a termination fee equal to the minimum monthly charges under the Service Order Form multiplied by the number of months remaining in the then current term of the Service Order Form. At Emere’s discretion, Emere may elect to suspend service under a Service Order Form on account of a breach by Client. Such suspension may be lifted at such time and upon such terms as may be determined by Emere.

(ii) Upon the expiration or termination or suspension of a Service Order Form, (a) Emere will immediately cease providing the Services under the Service Order Form, and (b) any and all payment obligations of Client under the Service Order Form will become due and payable in full immediately. Client agrees and acknowledges that such cessation of the Services may result in immediate and irreparable harm to Client’s business or operations, and Emere accepts the same.

6. Miscellaneous

(a) Usage of Emere Equipment and Servers. With respect to Emere’s equipment and servers, Client (including its employees, agents, contractors, or customers) shall at all times abide by Emere’s Acceptable Use Policy, as it shall be amended from time to time by Emere in its sole discretion. The Acceptable Use Policy is currently posted on Emere’s website.

(b) Client Data. Upon expiration of this Agreement or termination of this Agreement for any reason, Emere shall (a) deliver to Client, at Client’s cost, billed at normal hourly services rate of Emere, a copy of client information to Client in a flat file format, and (b) completely destroy or erase all other copies of the Client information in Emere’s or its agents’ or subcontractors’ possession in any form, including but not limited to electronic, hard copy, or other memory device.

(c) Storage of HIPAA Regulated Information. No “personal health information” (as defined in 45 CFR Section 160.103) or any other information regulated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) administrative simplification regulations, 45 CFR Parts 160, 162 and 164, shall be stored in any Emere facility, on Emere computer equipment or electronic media, or transmitted to or from an Emere facility without first entering into a Business Associate Agreement with Emere with mutually acceptable terms. Client shall ensure that any and all information regulated by HIPAA is used and disclosed only as permitted under HIPAA.

(d) Third Party Beneficiaries. The Agreement is entered into solely between, and may be enforced only by, Emere and Client, and the Agreement will not be deemed to create any rights in third parties.

(e) Force Majeure. Emere shall be excused from any delay or failure to perform hereunder caused by reason of any occurrence or contingency beyond its reasonable control.

(f) Governing Law; Dispute Resolution. The Agreement shall be governed by the substantive laws of the United States of America, State of Ohio, without regard to its or any other jurisdiction’s laws governing conflicts of law. [Any controversy or claim arising out of or relating to the Agreement, or any breach thereof, shall be settled by confidential binding arbitration in Hamilton County, Ohio in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.] Either party may, without inconsistency with the Agreement to arbitrate, seek from a court any provisional remedy that may be necessary to protect trademark or other rights or property pending the establishment of the arbitral tribunal or its determination of the merits of the controversy. The parties agree that the arbitrator(s) shall have the power to cause either party to pay all or part of the other party’s costs of the arbitration, including reasonable attorney’s fees and expenses.

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(h) Assignment or Transfer. The Agreement may not be assigned by either party in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Emere may assign the Agreement to an affiliate or division so long as Emere exercises management control over or owns a controlling interest in or is under common control with such affiliate or division. In addition, both Emere and Client have the unrestricted right to assign its rights and obligations under the Agreement to any individual, corporation or other business entity, which acquires all or substantially all of its shares or assets, and upon such assignment, the assigning party shall be released of all its obligations under the Agreement arising from and after the date of such assignment.

(i) Independent Relationship. Neither party shall have the authority to enter into any contract on behalf of the other party without that party’s express written consent. Neither party shall make any
representation or incur any obligation in the name of or on behalf of the other party. Nothing in the Agreement shall be construed as or constitute an appointment of either party as the agent for the other.

(j) Notices. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been given if mailed, certified mail, return receipt requested, with postage prepaid, to the addresses listed on the Service Order Form or to such other address as either party may notify the other in writing.

(k) Waiver. No waiver of any breach of the Agreement will be deemed to constitute a waiver of any subsequent breach of the same or any other provision. A failure or delay of either party to enforce at any time any of the provisions of the Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed as a waiver of such provision of the Agreement.

(l) Entire Agreement. The MTCA, together with all Service Order Forms and all schedules, addendums, exhibits and appendices attached to hereto and thereto, if any, constitutes the entire agreement of the parties with respect to the matters described herein, superseding in all respects any and all prior proposals, negotiations, understandings and other agreements, oral or written, between the parties. In the event of a conflict between the terms and conditions set forth in this MTCA and any other part of the Agreement, the provisions of this MTCA shall control, except only to the extent that the parties expressly provide otherwise in writing by reference to their intent to override this paragraph.

(m) Amendment. The Agreement may be amended only by a written agreement signed by both parties.

(n) Survival of Certain Provisions. Each party hereto covenants and agrees that the provisions in Sections 1, 4, and 6, in addition to any other provision that, by its terms, is intended to survive the expiration or termination of the Agreement, shall survive the expiration or termination of the Agreement.
Nimble Solution & Switches - Products only

Prepared for:

Montgomery County Water-Enviro Services

Monday, February 11, 2019

Quote # 025393
Opportunity # 25844

Emerge IT Solutions
1895 Airport Exchange Blvd, Ste 170
Erlanger, KY 41018

CONFIDENTIALITY NOTICE: This document contains information which may be confidential and/or legally privileged. The information contained therein is intended only for the individual or entity named on this document. If you are not the intended recipient you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this document is strictly prohibited and that the documents should be returned to Emerge immediately. The unauthorized disclosure, use or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.
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# Nimble Solution & Switches - Products only

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## Payment Options

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All Invoices Outstanding Beyond 30 Days Will Be Charged A Finance Charge of 1% Each Month Past Due. Any freight incurred will be added to the invoice.

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## Montgomery County Water-Enviro Services

### Signature:

### Name: Tyler Small

### Title:

### Date:

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Returns must be initiated within 30 days of product delivery. To be eligible for a return, items must be unused and in the original packaging.
EMERGE
MASTER TERMS AND CONDITIONS

This Master Terms and Conditions Agreement ("MTCA") is entered into between Emerge Managed Solutions, LLC and its affiliates (collectively, "Emerge") and Client, as defined herein. In consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions
   (a) Agreement. "Agreement" means this MTCA, any and all Service Order Forms entered into by the parties from time to time, which are made a part hereof, and any addendums, schedules, exhibits and/or appendices attached thereto or hereto.
   (b) Client. "Client" means the client identified on the applicable Service Order Form.
   (c) Client Equipment. "Client Equipment" means all Equipment other than Emerge Equipment.
   (d) Confidential Information. See Section 3.
   (e) Equipment. "Equipment" means all hardware, software, equipment, tools, or other tangible personal property.
   (f) Emerge Equipment. "Emerge Equipment" means all Equipment supplied or used by Emerge in connection with performance of the Services.
   (g) Service Order Form. "Service Order Form" means a separately executed document that describes Services to be purchased by Client, including any fees, charges, and additional terms that may apply.
   (h) Services. "Services" means those services that Emerge provides to Client pursuant to, and as more fully described in, one or more Service Order Forms entered into and made a part hereof.

2. Fees and Payments
   (a) Fees. For the Services, Client shall pay the fees set forth on the Service Order Form. Except as set forth on the Service Order Form, regardless of whether Client has commenced use of the Services, (i) Client's payment obligations for the Services shall commence on the date on which the applicable Service is first provided by Emerge and made available for use by Client, or (ii) at such time as Emerge begins agreed upon work to prepare for such provisioning. Except as otherwise provided on the Service Order Form, on each anniversary of the aforementioned date, the fees will increase by 10%. Notwithstanding the foregoing, to the extent software license providers increase Emerge's costs, Emerge has the right to increase the fees charged to Client hereunder in direct proportion to the cost increase, effective as of the next calendar month following the cost increase. Emerge shall provide notification to Client prior to any price increase associated with software licenses.
   (b) Taxes. All fees and charges hereunder shall be exclusive of, and Client shall be solely responsible for, any applicable taxes or levies, whether now in force or enacted in the future, applicable to the delivery of the Services hereunder, except for taxes attributable to the net income of Emerge.
   (c) Payment Terms. All recurring charges shall be due and payable in advance no later than the first business day of the month. All non-recurring charges shall be due as provided on the associated Service Order Form. Unless waived in writing by Emerge, late payments will accrue interest at the lower of 1.5% per month or the highest rate permitted by law. If Client is late with more than one payment, Emerge may, upon written notice to Client, require a security deposit or other reasonable assurances to secure Client's payment obligations hereunder. All costs associated with collecting delinquent payments, including reasonable attorney's fees, shall be added to the unpaid balance and paid by Client.

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   (b) Exceptions. Notwithstanding the above, the term "Confidential Information" shall not include any information that is:
      (i) available from public sources or in the public domain, through no fault of the receiving party; or
      (ii) received at any time from any third party who, to the best of the receiving party's knowledge, has no non-disclosure obligation to the disclosing party; or
      (iii) readily discernible from publicly-available products or literature; or
      (iv) approved for disclosure by prior written permission of a corporate officer of the disclosing party.
   (c) Compelled Disclosures. The receiving party may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law; provided that the receiving party (i) gives the disclosing party reasonable written notice to allow the disclosing party to seek a protective order or other appropriate remedy (except to the extent the receiving party's compliance with the foregoing would cause it to violate a court order or other legal requirement), (ii) discloses only such information as is required by the governmental entity or otherwise required by law, and (iii) uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.
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(e) **Limitation of Liability.** Except for the willful misconduct or gross negligence of Emerge, Emerge will not be liable for unauthorized access to Client’s Equipment or for unauthorized access to or alteration, theft or destruction of Client’s data files, programs, procedures or information through accident, fraudulent means or devices, or any other method. Emerge’s liability for damages to Client for any cause whatsoever, regardless of form of action, shall be limited to the amounts paid by Client to Emerge in respect of the Services giving rise to the claim in the one (1) year prior thereto.

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(i) **Independent Relationship.** Neither party shall have the authority to enter into any contract on behalf of the other party without that party’s express written consent. Neither party shall make any
representation or incur any obligation in the name of or on behalf of the other party. Nothing in the Agreement shall be construed as or constitute an appointment of either party as the agent for the other.

(j) Notices. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been given if mailed, certified mail, return receipt requested, with postage prepaid, to the addresses listed on the Service Order Form or to such other address as either party may notify the other in writing.

(k) Waiver. No waiver of any breach of the Agreement will be deemed to constitute a waiver of any subsequent breach of the same or any other provision. A failure or delay of either party to enforce at any time any of the provisions of the Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed as a waiver of such provision of the Agreement.

(l) Entire Agreement. The MTCA, together with all Service Order Forms and all schedules, addendums, exhibits and appendices attached to hereto and thereto, if any, constitutes the entire agreement of the parties with respect to the matters described herein, superseding in all respects any and all prior proposals, negotiations, understandings and other agreements, oral or written, between the parties. In the event of a conflict between the terms and conditions set forth in this MTCA and any other part of the Agreement, the provisions of this MTCA shall control, except only to the extent that the parties expressly provide otherwise in writing by reference to their intent to override this paragraph.

(m) Amendment. The Agreement may be amended only by a written agreement signed by both parties.

(n) Survival of Certain Provisions. Each party hereto covenants and agrees that the provisions in Sections 1, 4, and 6, in addition to any other provision that, by its terms, is intended to survive the expiration or termination of the Agreement, shall survive the expiration or termination of the Agreement.