To Whom It May Concern:

All sealed bids must be returned to the Nassau Community College, PROCUREMENT DEPARTMENT, TOWER 4TH FLOOR BY 2:00 PM on the date indicated on the bid. Each response must be submitted in a sealed envelope with the information as on the attached sample. This envelope MUST indicate “BID NUMBER AND YOUR RETURN ADDRESS”.

If you are responding to a bid and replying via special delivery services (Federal Express, Express Mail, etc.), the mailing MUST have the BID NUMBER clearly marked on the outside of the package. Failure to do so may result in the return of your bid.

This bid must be completed, signed and returned in its entirety.

Thank you,

Gary Homkow
Gary Homkow
Assistant Vice President for Procurement
NASSAU COMMUNITY COLLEGE
PROCUREMENT DEPARTMENT
ONE EDUCATION DRIVE
GARDEN CITY, NY 11530-6793

BID ROOM, TOWER 4TH FLOOR

BID NO. CY49-040312-1020
OPENING: 2:00 PM ON APRIL 3, 2012
**FORMAL SEALED BID PROPOSAL**

**Nassau Community College**  
of the County of Nassau • State of New York  
One Education Drive, Garden City, NY 11530

**BID NUMBER**  
CY49-040312-1020

**BID OPENING DATE**  
4/3/12

<table>
<thead>
<tr>
<th>BUYER</th>
<th>TELEPHONE</th>
<th>REQUISITION NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toni-Ann Rego</td>
<td>(516) 572-9824</td>
<td>57809</td>
</tr>
</tbody>
</table>

**PREPARE YOUR BID ON THIS FORM USING BLACK INK OR TYPEWRITER**

**BID TITLE**  
Purchase of Trane O.E.M./Univent Parts

- **BID MUST BE RECEIVED AT THE PROCUREMENT OFFICE, 4TH FLOOR, ADMINISTRATIVE TOWER BY 2:00 P.M. ON, OR BEFORE THE BID OPENING DATE.**

- **ALL BIDS MUST BE F.O.B. DESTINATION AND INCLUDE INSIDE DELIVERY WITHIN DOORS UNLESS OTHERWISE SPECIFIED.**

- **CASH DISCOUNT OF ___________________________ PERCENT WILL BE ALLOWED FOR PROMPT PAYMENT WITHIN 20 BUSINESS DAYS.**

**THE UNDERSIGNED BIDDER AFFIRMS AND DECLARES THAT HE HAS CAREFULLY EXAMINED THE ADVERTISED INVITATION FOR BIDS, THE BID TERMS AND CONDITIONS, AND DETAILED SPECIFICATIONS AND CERTIFIES THAT THIS BID IS SIGNED WITH FULL KNOWLEDGE AND ACCEPTANCE OF ALL THE PROVISIONS THEREOF AND OFFERS AND AGREES, IF THIS BID IS ACCEPTED WITHIN 120 DAYS FROM THE BID OPENING DATE TO FURNISH THE SERVICE AND/OR ANY OR ALL THE ITEMS UPON WHICH PRICES ARE HERIN QUOTED IN THE QUANTITY AND AT THE PRICES BID.**

**THE BIDDER CERTIFIES THAT: (A) THE BID HAS BEEN ARRIVED AT BY THE BIDDER INDEPENDENTLY AND HAS BEEN SUBMITTED WITHOUT COLLUSION WITH ANY OTHER VENDOR OF MATERIALS, SUPPLIES, EQUIPMENT OR SERVICE OF THE TYPE DESCRIBED IN INVITATION FOR BIDS, AND (B) THE CONTENTS OF THE BID HAVE NOT BEEN COMMUNICATED BY THE BIDDER, NOR, TO ITS BEST KNOWLEDGE AND BELIEF, BY ANY OF ITS EMPLOYEES OR AGENTS, TO ANY PERSON NOT AN EMPLOYEE OR AGENT OF BIDDER OR ITS SURETY ON ANY BOND FURNISHED HEREWITH PRIOR TO OFFICIAL OPENING OF BID.**

**BID MUST BE SIGNED BY PROPRIETOR, PARTNER OR OFFICER AUTHORIZED TO SIGN FOR CORPORATION**

**NAME OF BIDDER ____________________________**

**ADDRESS ____________________________________________________________**

**CITY ______________________ STATE __________________ ZIP CODE __________**

**PHONE NO. ___________________ FEDERAL TAX IDENTIFICATION NUMBER __________________**

**IN EXECUTING THIS BID, THE BIDDER WARRANTS THAT THE PRICES SUBMITTED HERExNE ARE NOT HIGHER THAN THOSE OFFERED TO ANY GOVERNMENTAL OR COMMERCIAL CONSUMER FOR LIKE DELIVERIES. THE PRICES HEREIN SHOULD NOT INCLUDE ANY FEDERAL EXCISE TAXES OR SALES TAXES IMPOSED BY ANY STATE OR MUNICIPAL GOVERNMENT. SUCH TAXES IF INCLUDED MUST BE DEDUCTED BY THE BIDDER WHEN SUBMITTING BID. FURTHERMORE, BIDDER CERTIFIES THAT HE HAS READ THE ENTIRE BID PACKAGE.**

**WHICH CONSISTS OF 11 PAGES AND THE FOLLOWING ATTACHMENTS ____________________________**

**AND ANY EXCEPTIONS HAVE BEEN CLEARLY NOTED.**

**SIGNATURE OF AUTHORIZED INDIVIDUAL ____________________________**

**PRINT OR TYPE NAME OF SIGNER AND TITLE ____________________________**

**ANY AGREEMENT GENERATED FROM THIS BID SOLICITATION IS NOT VALID IF CONTRACTOR OR CONTRACTOR'S PERSONNEL ARE EMPLOYED BY NASSAU COUNTY OR NASSAU COMMUNITY COLLEGE (22-4.2, NASSAU COUNTY CODE OF ETHICS).**
**BID TERMS AND CONDITIONS**

1. **DEFINITIONS** The term “County” as used herein shall be deemed as reference to the County of Nassau, State of New York. The term “Contractor” or “Vendor” or “Successful Bidder” as used herein, shall be deemed as reference to the Individual, Joint Venture, Corporation or any person or entity receiving an award to perform any or all of the services specified in accordance with the terms of this bid. The term “College” as used herein, shall be deemed as reference to Nassau Community College of the County of Nassau, State of New York. The term “Director” as used herein, shall be deemed as reference to the Assistant Vice President for Procurement / Director of Procurement, Nassau Community College. The term “Comptroller” as used herein, shall be deemed as reference to the Comptroller of Nassau County. The abbreviation “NCC” as used herein shall be deemed as reference to Nassau Community College of the County of Nassau, State of New York. The term “Agreement” as used herein, shall be deemed as reference to any Contract, Purchase Order or Pricing Agreement awarded as a result of this bid. The word “Law” as used herein, includes any and all statutes, local laws, ordinances, rules, regulations, applicable orders, and/or decrees, as the same may be amended from time to time, enacted, or adopted.

2. The following conditions apply to this bid: (a) Late Formal Sealed Bids will **NOT** be accepted. Bidders are urged to mail bids early to assure delivery on time. (b) Bids must be received by 2:00 P.M. on the Bid Opening Date. (c) Prices MUST be inserted with typewriter or ink. Entries with white-out or cross-outs MUST be initialed or that entry will be disqualified. (d) Bidders should submit Unit Price in an appropriate column on bid pages or forms attached hereto. In the event of a discrepancy between the Unit Price and the Extension Price, the Unit Price shall govern. (e) Bidders should retain one (1) copy of bid forms and applicable attachments. Any Agreement issued against this bid will refer to the bid and attachments to designate items awarded. (f) Bidders MUST state Manufacturer’s name and catalog number of each item bid on. (g) **ABSOLUTELY NO MINIMUM ORDERS** shall be applied to this bid. (h) Purchases made by the College are not subject to State or Local Sales Taxes or Federal Excise Taxes. (i) The College is not subject to any existing “FAIR TRADE AGREEMENT” and Bidders should be governed accordingly. (j) Any Manufacturer offering prices for equipment or supplies (disposables), MUST agree to sell parts and service for their equipment currently owned or leased by the College or acquired as a result of this bid, directly to the College. This provision applies even if this bid is for supplies only. (k) When applicable, Vendor shall submit documentation to the College, prior to delivering the product, indicating a “Class A” Fire Rating and New York State Department of State Compliance Numbers, in accordance with “NAPPA 101” and New York State Fire Prevention Code, Part 772 (NYSDOS Number). Products delivered without prior approved certification, will be returned, and the Vendor shall be responsible for all costs associated with their return. (l) Bid must be returned in its entirety. (Every page must be returned). (m) All work performed must be in compliance with all rules and regulations stated by OSHA, Local, State, Federal or any other regulatory agencies. (n) On repair Agreements, Contractor will furnish all labor, materials, transportation, tools, instrumentation, parts and accessories necessary to repair and restore the equipment to optimum operating condition. (o) All Contractor personnel assigned to any requirement of a contract established must be fully qualified and cognizant of the required and applicable Electrical Codes and safety requirements, and must adhere to them. (p) All parts supplied must match and inter-member with the designated equipment, and must be in accordance with the specifications of the Manufacturer of the part to be replaced. (q) Except as otherwise specified, all Agreement requirements will be performed at the College site, as required. (r) Any requirement to remove any part of the equipment or system(s) to Contractor’s shop must be approved by an authorized College representative. The College shall supply all utilities which are available on location insofar as compatibility requirements permit. (s) All requirements performed by the Contractor will be subject to inspection and approval by an authorized College representative. (t) Employees of the Contractor who enter on same shall carry identification badges or cards and shall be instructed to submit same to scrutiny upon request by Security or supervisory personnel of the College.

3. Bids on equipment must be on standard new equipment, latest model, except as otherwise specifically stated in proposal or detailed specification. Where any part or nominal appurtenances of equipment is not described, it shall be understood that all equipment and appurtenances which are usually provided in the manufacturer’s stock model shall be furnished.

4. Bids on materials and supplies must be for new items except as otherwise specifically stated in bid or detailed specification.

5. Bidder declares that the bid is made without any connection with any other Bidder submitting a bid for the same items, and is in all respects fair and without collusion or fraud.

6. **INDEPENDENT CONTRACTOR** The Contractor is an independent contractor of the County or College. The Contractor shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Contractor (a “Contractor Agent”), be (i) deemed a College or County employee, (ii) commit the College or County to any obligation, or (iii) hold itself, himself, or herself out as a College or County employee or Person with the authority to commit the College or County to any obligation. As used in any Agreement awarded as a result of this bid the word “Person” means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof (including agencies, bureaus, offices and departments thereof).

7. **BIDDERS EXCEPTIONS** Bidders may take exception to paragraphs of this bid under a separate cover letter to be attached to this bid, indicating specific bid page, paragraph, and the exception(s). The Director will consider whether or not to accept the Bidders exception(s). In any event, the decision of the Director will be final.

8. **DETAILED SPECIFICATIONS** Proposals submitted hereunder shall be in accordance with detailed specifications set forth on bid pages or as attached and made part hereof. Such specifications are representative of the type of item(s) required. The Director reserves the right to accept item(s) with different specifications or methodologies if, in his opinion, the item(s) offered can satisfy the needs of the Using Department(s). Furthermore, any alternate item(s) offered can be rejected if they fail to meet the specifications of the item(s) specified in this bid.

9. **PRICES** The provisions of the New York State Fair Trade Law (Feld-Crawford Act) and the federal price discrimination law (Robinson-Patman Act) do not apply to purchases made by the College/County.

10. **REDUCTION IN PRICES** If an award is made, the Contractor agrees, should prices be reduced to the general trade during the requirement period, the College shall receive the benefit of such reduction immediately upon effect. It shall be incumbent upon the Contractor to notify the College of such price reductions.

11. **NEW YORK STATE PRICES** Bidders must represent and warrant that if they are under contract with New York State for items specified herein that the price, per unit, quoted to Nassau Community College, therefore, is not higher than the price, per unit, quoted to New York State for like quantities.
12. APPROXIMATE QUANTITIES The estimated usage quantities or estimated annual dollar value, when indicated, are merely estimates based on experience or anticipated usage and are given for information purposes only. The College will NOT be compelled to order any amount of any respective item. Agreements, however, shall be for the quantities actually ordered by the College during the period specified.

13. SPECIFICATIONS If Bidder is offering an “Equal” item, Bidder is to submit complete specifications and illustrations of products offered with the bid. Acceptance of a bid and designation of a Manufacturer’s catalog description, brand name or number in any Agreement resulting there from shall not be construed as qualification of the specifications of this bid or relief there from except as specifically stated in the Agreement.

14. EQUIVALENT BIDS Bidders may offer equipment of the same capability, but of different manufacture and model than that specified in this bid. The use of the name of a Manufacturer, brand, make or catalog designation in specifying items described herein does not restrict Bidders from offering equivalent bids. Such a designation is used to indicate the character, quality and performance equivalence desired. However, acceptance of an equivalent product will be strictly at the discretion of the Director. Furthermore, proof and/or demonstration of equivalence, compatibility and performance shall be incumbent upon the Bidder.

15. PRODUCT IDENTIFICATION If a product is identified by a BRAND NAME, a substitute of equal quality, construction, finish, composition, size, workmanship and performance characteristics may be acceptable. In submitting a bid, each Bidder warrants that the substitute product being offered is an equal. Bid Sheets shall be so noted with the Manufacturer’s name and brand of the product offered as an equal. If, as a result of an award, a delivery is made of a brand or product represented as an equal which is subsequently deemed to be unacceptable, the Vendor shall be required, at his expense, to pick up the rejected item and replace it with brand(s) listed in the bid or an acceptable equal which will have the approval of the Director.

16. PROTECTION FROM CLAIM AGAINST “OR EQUAL” In the event of any claim by any unsuccessful Bidder concerning or relating to the issue of “equal or better” or “equal or equal”, the successful Bidder agrees, at his own cost and expense, to defend such claim or claims and agrees to hold the County of Nassau and Nassau Community College free and harmless from any and all claims for loss or damage arising out of this transaction for any reason whatsoever.

17. ALTERNATE BIDS If the Bidder wishes to offer an alternate to the specified item(s), he may do so, provided that he clearly indicates that the item(s) offered is an alternate and does not represent the alternate to be an equivalent, and further provided he accompany the alternate offer with full explanation and specification. Consideration of the alternate shall be at the sole discretion of the Director.

18. SHIPPING CHARGES All bids must be F.O.B. Destination and include delivery within doors unless otherwise specified. Nassau Community College acknowledges that if an emergency shipment (overnight, Saturday Delivery, etc.) is required and requested by the Using Department, such shipping charges would be paid by the Using Department on a “Prepay Shipping Charges and Add To Claim” basis.

19. SURETY In the event that an award is made hereunder, the Director reserves the right to require Successful Bidder to post, within one week, security for faithful performance, with the understanding that whole or any part thereof may be used by the College/County to rectify any deficiency that may arise from any default on the part of the Successful Bidder. Such security must meet all the requirements of the College/County Attorney and must be approved by the College/County Attorney.

20. SAMPLES Samples, when required, must be submitted strictly in accordance with instructions; otherwise bid may not be considered. If samples are requested subsequent to bid opening, they shall be delivered within five (5) days of request for bid to have consideration. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating if the Bidder desires their return; also specifying the address, to which they are to be returned, provided they have not been used or made useless by tests. Award samples may be held for comparison with deliveries. Samples will be returned at the Bidder’s risk and expense.

21. AWARD (a) The Director reserves the right before making an award to make investigations as to whether or not the items, qualifications or facilities offered by the Bidder meet the requirements set forth herein and are ample and sufficient to insure the proper performance of the purpose for which required and the terms of delivery. (b) Awards will be made to the lowest responsible Bidder. Cash discounts will not be a factor in determining awards, except in tie bids. Consideration will be given to the reliability of the Bidder, the quantities of the materials, equipment or supplies to be furnished, their conformity with the specifications, the purpose for which required and the terms of delivery. (c) The Director reserves the right to reject any and all bids in whole or in part and to waive technical defects in any award. The Director must be satisfied, if requested by the Director, to present evidence of experience, ability and financial standing, as well as a statement as to plant, machinery, trained personnel and capacity of the manufacturer for the production and distribution of the material on which he is bidding. Upon request of the Director, Successful Bidder shall file certification from the manufacturer relative to authorization, delivery, service and guarantees. If it is found that the conditions of the bid are not complied with or that articles or equipment purported to be furnished do not meet the requirements called for, or that the qualifications, financial standing or facilities are not satisfactory, the Director may reject such bids. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the Director to make any examinations before award; and it is further understood that, if such examination is made, it in no way relieves the Bidder from fulfilling all requirements and conditions of the bid. (d) Unless otherwise indicated herein, the Director reserves the right to make award by items, by classes, by groups of items, or as a whole.

22. DELIVERIES Upon failure of the Vendor to deliver within the time specified, or within reasonable time as interpreted by the Director, or failure to make replacement of rejected articles when so requested immediately or as directed by the Director, the Director may purchase from other sources to take the place of the item rejected or not delivered. The Director reserves the right to authorize immediate purchase from other sources against rejections on any order when necessary. On all such purchases the Vendor agrees to promptly reimburse the College for excess cost occasioned by such purchases. Should the cost be less, the Vendor shall have no claim to the difference. Such purchases will be deducted from order quantity.

23. An order may be canceled at the Vendor’s expense upon nonperformance. Failure of the Vendor to furnish additional surety within ten (10) days from date of request shall be sufficient cause for the cancellation of the order.

24. When in the determination of the Director, the articles or equipment delivered fail to meet College specifications or, if in the determination of the Director, the Vendor consistently fails to deliver as ordered, the Director reserves the right to cancel the order and purchase the balance from other sources at Vendor’s expense.
25. Delivery must be made as ordered and in accordance with the bid. If delivery instructions do not appear on order, it will be interpreted to mean prompt delivery. The decision of the Director as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of order shall rest with the Vendor.

26. The College will not schedule any deliveries for Saturdays, Sundays or legal holidays, except commodities required for daily consumption or where the delivery is an emergency, a replacement, or is overdue, in which event the convenience of the College will govern.

27. Supplies shall be securely and properly packed for shipment, according to accepted commercial practice, without extra charge for packing cases, reels, bailing or sacks. The containers remain the property of the College unless definitely stated otherwise in the bid.

28. The Vendor shall be responsible for delivery of supplies in good condition at point of destination. The Vendor shall file all claims with carrier for breakage, imperfections and other losses, which will be deducted from invoices. The College will note for the benefit of the Vendor when packages are not received in good condition.

29. All supplies which are customarily labeled or identified must have securely affixed thereto the original un-mutilated label or marking of the manufacturer.

30. Furniture, machines, and other equipment must be delivered, installed and set in place as directed, ready for use unless otherwise specified.

31. WARRANTY (a) Generally. The successful Bidder warrants the equipment furnished and all associated equipment against any defects in design, workmanship and materials against failure to operate satisfactorily for one (1) year from the date of acceptance by the College, other than defects or failure shown by the Vendor that have arisen solely from accident or abuse occurring after delivery to the College, and agrees to replace any parts, which, in the opinion of the user, shall fail from the above reasons. (b) Different Warranty Period. If a company policy or trade practice requires a different warranty period, the Bidder may so state without fear of disqualification. However, the Bidder is cautioned that the length of warranty may, in some cases, be a deciding factor in making an award. (c) OSHA. Equipment furnished hereunder shall meet the standards set forth in the Occupational Safety and Health Act of 1979.

32. REPLACEMENT PARTS If the requirements specified herein represent, for the most part, replacement and/or repair components to existing and presently owned equipment, such components must match and inter-member without modification to the equipment and systems indicated.

33. EXPIRATION DATING All products shipped must have a minimum of one (1) year expiration dating from the date of delivery to the College. For products that have less than one (1) year expiration dating from time of manufacture, the longest possible expiration dating must be supplied to the College.

34. ADDITIONAL ITEMS Additional items of the same or similar manufacture or additional services related to the specifications and requirements stated herein may be added by an amendment to the agreement, provided that such items or services do not or are not expected to exceed the statutory limit of $20,000.00 in any Agreement period.

35. Deliveries are subject to reweighing at destination by the College and payment will be made on the basis of net weight of materials delivered. Normal shrinkage will be allowed in such instances where shrinkage is possible. Short weight shall be sufficient cause for cancellation of order at Vendor’s expense.

36. TERMINATION (a) Generally. Any Agreement awarded as a result of this bid may be terminated (i) for any reason by the College upon thirty (30) days written notice to the Contractor, (ii) for “Cause” by the College immediately upon the receipt by the Contractor of written notice of termination, (iii) upon mutual written Agreement of the College and the Contractor, and (iv) in accordance with any other provisions of the Agreement expressly addressing termination. As used in the Agreement the word “Cause” includes: (i) a breach of the Agreement; (ii) the failure to obtain and maintain in full force and effect all Approvals required for the services described in the Agreement to be legally and professionally rendered; and (iii) the termination or impending termination of federal or state funding for the services to be provided under the Agreement. (b) By The Contractor. The Agreement may be terminated by the Contractor if performance becomes impracticable through no fault of the Contractor, where the impracticability relates to the Contractor’s ability to perform its obligations and not to a judgment as to convenience or the desirability of continued performance. Termination under this subsection shall be effected by the Contractor delivering to the Director, at least sixty (60) days prior to the termination date (or a shorter period if sixty days notice is impossible), a notice stating (i) that the Contractor is terminating the Agreement in accordance with this subsection, (ii) the date as to which the Agreement will terminate, and (iii) the facts giving rise to the Contractor’s right to terminate under this subsection. A copy of the notice given to the Director shall be given to the Vice President for Legal and External Affairs of the College on the same day that notice is given to the Director. (c) Contractor Assistance upon Termination. In connection with the termination or impending termination of the Agreement the Contractor shall, regardless of the reason for termination, take all actions reasonably requested by the College (including those set forth in other provisions of the Agreement) to assist the College in transitioning the Contractor’s responsibilities under the Agreement. The provisions of this Section shall survive the termination of the Agreement.

37. PAYMENT Vendor must submit an invoice to the Nassau Community College Accounts Payable Department (Tower 6th Fl., One Education Drive, Garden City, NY 11530) in order to be paid. Invoice must reference the order number and be itemized in detail so that anyone reading same may readily understand the kind, quantity, quality and prices. Cash discount terms, where applicable, must be indicated on the invoice. By submitting an invoice, vendor certifies that all items or services were delivered or rendered as set forth on the invoice; that the prices charged are in accordance with the referenced purchase order, delivery order or contract; that the claim is just, true and correct; that the balance stated herein is actually due and owing and has not been previously claimed; that no taxes from which the County/College is exempt are included. Incomplete invoices will be returned to the vendor unpaid.

38. INSURANCE AND WORKERS’ COMPENSATION (a) Types and Amounts. The Contractor shall obtain and maintain throughout the term of any Agreement awarded as a result of this bid, at its own expense: (i) one or more policies for commercial general liability insurance, which policy(ies) shall name “Nassau County” and “Nassau Community College” as certificate holder and has a minimum single combined limit of liability of not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate coverage per project, (ii) if contracting in whole or part to provide professional services, one or more policies for professional liability insurance, which policy(ies) shall have a minimum single combined limit of liability of not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate coverage per project, (iii) compensation insurance for the benefit of the Contractor’s employees.
reserves the right to consider the Agreement terminated as of the date a material breach of the Agreement upon which the County or College Contractor to maintain the other required coverage's shall be deemed render the Agreement void and of no effect. The failure of the Contractor to maintain Workers' Compensation Insurance shall suspend or invalidate any of the required coverage's. The failure of the Contractor to maintain insurance obtained and maintained by the Contractor pursuant to the Agreement to carry insurance with the same limits and provisions required to be carried by the Contractor under the Agreement. (c) Delivery; Coverage Change; No Inconsistent Actions. Prior to the execution of the Agreement, copies of current certificates of insurance evidencing the insurance coverage required by the Agreement shall be delivered to the College. Not less than thirty (30) days prior to the date of any expiration or renewal of, or actual, proposed or threatened reduction or cancellation of coverage under, any insurance required hereunder, the Contractor shall provide written notice to the College of the same and deliver to the College certificates of insurance. The Contractor shall cause all insurance to remain in full force and effect throughout the term of the Agreement and shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverage's. The failure of the Contractor to maintain Workers' Compensation Insurance shall render the Agreement void and of no effect. The failure of the Contractor to maintain the other required coverage’s shall be deemed a material breach of the Agreement upon which the County or College reserves the right to consider the Agreement terminated as of the date of such failure.

39. INDEMNIFICATION; DEFENSE; COOPERATION (a) The Contractor shall be solely responsible for and shall indemnify and hold harmless the College, the County, their agents, officers or employees from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorney's fees and disbursements) and damages, arising out of or in connection with any acts or omissions of the Contractor or a Contractor Agent, regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same, provided, however, that, the Contractor shall not be responsible for that portion, if any, of a Loss that is caused by the negligence of the College/County. (b) The Contractor shall, upon the College's demand and at the County's direction, promptly and diligently defend, at the Contractor's own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against the College, the County, their agents, officers or employees or for which he or his workmen are responsible, to the building or equipment, to his own work or to the work of other vendors, or in the opinion of the Director to pay the cost of such defense to the College/County. (b) His products against defective material or workmanship and to repair or replace any damages or marring occasioned in transit. (c) To furnish protection from damage for all work and to repair damages of any kind, for which he or his workmen are responsible, to the building or equipment, to his own work or to the work of other vendors, or in the opinion of the Director to pay the same by deductions in payment due to Contractor or to pay for the goods or services delivered or rendered to or rendered hereunder, and shall at all times observe and comply with said ordinances, laws and regulations at his sole cost and expense.

43. GUARANTEES BY BIDDER. Bidder hereby guarantees: (a) To save the College/County, its agents and employees harmless from any action, suit or proceeding in connection with this Agreement. (b) The Contractor shall cooperate with the College and the County in connection with the investigation, defense or prosecution of any action, suit or proceeding in connection with this Agreement, including the acts or omissions of the Contractor and/or a Contractor Agent in connection with this Agreement. (d) The provisions of this Section shall survive the termination of this Agreement.

40. ACCOUNTING PROCEDURES; RECORDS Vendor shall maintain and retain, for a period of six (6) years following the later of termination of or final payment under any Agreement awarded as a result of this bid, complete and accurate records, documents, accounts and other evidence, whether maintained electronically or manually, pertinent to performance under the Agreement. Records shall be maintained in accordance with Generally Accepted Accounting Principles. Such Records shall at all times be available for audit and inspection by the Comptroller, the College, any other governmental authority with jurisdiction over the proceeds or amounts received and/or payment therefore, and any of their duly designated representatives. The provisions of this Section shall survive the termination of the Agreement.

41. NO ARREARS OR DEFAULT. Bidder hereby certifies that he is not in arrears to the College or County upon any debt or contract and is not in default as surety, contractor, or otherwise upon any obligation to the College or County, including any obligation to pay taxes to, or perform services for or on behalf of, the College or County.

42. LABOR LAWS AND ANTIDISCRIMINATION Upon Vendor acceptance hereof, the Vendor agrees to comply with Article IX, Section 220 of the Constitution of the State of New York, Sections 220a, 220b, 220d, 220e and 230 of the Labor Law, Section 5 and 12 of the Lien Law, article 2 of the Uniform Commercial Code, Sections 108 and 109 as well as Article 18 of Section 224.2 of the Nassau County Administrative Code, the provisions of the anti-Discrimination Order of Nassau County, and the Vendor shall keep himself fully informed of all additional municipal ordinances and regulations, State and National laws in any manner affecting the work or goods herein specified, and any extra work contracted for by him, and shall at all times observe and comply with said ordinances, laws and regulations at his sole cost and expense.

44. ASSIGNMENT; AMENDMENT; WAIVER; SUBCONTRACTING (a) Any Agreement awarded as a result of this bid and the rights and obligations there under may not be in whole or part (i) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the College, and any purported assignment, other disposal or modification without such
prior written consent shall be null and void. The failure of a party to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights. (b) It shall be a condition to the consent of the College to any assignment or subcontract that the entity to or with whom or which such assignment or subcontract is made agrees in writing that, except as provided in the following sentence with respect to amounts payable by the College, such entity shall be bound by the terms and conditions of the Agreement as though an original party hereto. Unless the action being approved is an assignment of every right and obligation of the Contractor under the Agreement (i) the Contractor shall remain responsible for the full performance of its obligations under the Agreement, and (ii) no amounts payable by the College under the Agreement shall become payable by the College to any Person other than the Contractor.

45. CONSENT TO JURISDICTION AND VENUE; GOVERNING LAW

Unless otherwise specified in the Agreement awarded as a result of this bid or required by Law, all claims or actions with respect to the Agreement shall be resolved exclusively by a court of competent jurisdiction located in Nassau County in New York State and the parties expressly waive any objections to the same on any grounds, including venue and forum non convenience. Any Agreement awarded as a result of this bid is intended as a contract under, and shall be governed and construed in accordance with, the Laws of New York State, without regard to the conflict of laws provisions thereof.

46. COMPLIANCE WITH LAW

(a) Generally. The Contractor shall comply with any and all applicable Federal, State and local Laws, including, but not limited to those relating to conflicts of interest, discrimination, and disclosure of information, in connection with its performance under any Agreement awarded as a result of this bid. In furtherance of the foregoing, the Contractor shall be bound by and shall comply with the terms of Appendix EE included in this bid. (b) Records Access. The Successful Bidder hereby acknowledges and agrees that all records, information, and data acquired in connection with performance or administration of any Agreement awarded as a result of this bid shall be used and disclosed solely for the purpose of performance and administration of the contract or as required by Law. The Successful Bidder is hereby notified that Contractor Information in the College and/or County’s possession may be subject to disclosure under Section 87 of the New York State Public Officer’s Law. In the event that such a request for disclosure is made, the College and/or County shall make reasonable efforts to notify the Contractor of such request prior to disclosure of the Information so that the Contractor may take such action as it deems appropriate.

47. The College will not be responsible nor liable for any shipment or delivery of any materials, supplies, or equipment without its express written instructions or valid Agreement.

48. No agreements, changes, modifications or alterations shall be deemed effective nor shall the same be binding upon the College/County unless in writing and signed by the Director or his duly designated representative.

49. NEW YORK STATE RIGHT TO KNOW LAW AND “OSHA”

“Pursuant to article 28, section 876 of the labor law of the State of New York, the County has mandated employer’s responsibility to provide notice to employees regarding toxic substances. To satisfy this mandated requirement, you are required to comply with all elements of this law. Some of the materials or substances on this bid may contain chemicals or contain toxic or hazardous ingredients. Therefore, the Successful bidder will be required to submit and maintain, an accurate inventory of each chemical, or product containing hazardous ingredients, along with a corresponding “Material Safety Data Sheet” (MSDS) for each item on the inventory. These MSDS’s must be submitted to NCC no later than 30 business days prior to the proposed start/delivery date to ensure NCC has adequate time to review. For specific projects at NCC, there may be occasion in which NCC suggests alternative products (e.g. Less toxic substances, more environmentally friendly) to ensure the continued safety of the NCC community and surrounding environment. On specific projects, there may be occasion where NCC rejects the use of a proposed chemical or substance containing hazardous ingredients due to its toxicity or potential to cause harm to humans and/or the environment. While working at NCC, the successful bidder will be required to maintain an accurate inventory and ensure an MSDS is readily available for each item on the inventory at all times. NCC also reserves the right to request and review this inventory and any or all of the MSDS’s. All materials to be supplied pursuant to this bid. Failure to provide this information in accordance with the time frame outlined above may result in a delay in the commencement of work.
ADDITIONAL TERMS AND CONDITIONS

Purpose: The purpose of this bid is to establish a price basis upon which a Pricing Agreement may be issued by the Procurement Department for Nassau Community College of the merchandise specified herein.

Period Covered: Shall be for one (1) year from the date of issuance. The College reserves the right to extend the Pricing Agreement up to an additional year; however, the termination of the Pricing Agreement may be further extended up to two (2) months beyond the stated termination date.

The maximum period of this contract with renewal option applied shall be two (2) years, and if the further extension is applied, two (2) years and two (2) months.

All extensions are subject upon the mutual consent of both parties.

The Director of Procurement reserves the right to cancel any pricing agreement at any time by giving not less than thirty (30) days written notice, that, on or after a date therein specified, the contract shall be deemed terminated and canceled.

NOTE: Vendor will be required to provide the College with three (3) sets of current manufacturer price lists on which they have bid. These will be for College use only and will be on file in College’s Accounts Payable Department, Physical Plant Department and Procurement Department.

Vendor must maintain an accurate record of supplies provided and funds used, and is cautioned against issuing materials in excess of the dollar value of any Pricing Agreement. When contacted by the College, the vendor must provide this accounting information by facsimile or if requested by letter. The purpose of maintaining these records is not for accounting purposes but instead to keep from exceeding the limits of the Pricing Agreement. Vendor may submit claims monthly in arrears for goods delivered. (Except that claims totaling in excess of $500.00 may be submitted forthwith upon delivery of goods.)

PRICES: Shall be determined by applying the Vendor’s stated discount to the manufacturer’s “Contract” price or where applicable “List” price in effect at time of placing order(s).

DISCOUNT FROM MANUFACTURER’S PRICE LIST: TRANE

MANUFACTURER’S PRICE LIST ____________ TRANE OEM
% Discount

IDENTIFY APPLICABLE PRICE COLUMN HEADING ____________________________

NAME/NUMBER & DATE OF PRICE LIST ______________________________________

PRICE LIST SUBSCRIPTION CHARGE, IF ANY ________________________________
APPENDIX EE

EQUALEMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN

The provisions of this Appendix EE are hereby made a part of the document to which it is attached.

The Contractor shall comply with all federal, State and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled “Participation by Minority Group Members and Women in Nassau County Contracts,” governs all County Contracts as defined by such title and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

(a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgrading, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgrading, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

(b) At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor’s obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The Contractor shall make Best Efforts to solicit active participation by certified minority or women-owned business enterprises (“Certified MWBEs”) as defined in Section 101 of Local Law No. 14-2002, including the granting of Subcontracts.

(e) The Contractor shall, in its advertisements and solicitations for Subcontractors, indicate its interest in receiving bids from Certified MWBEs and the requirement that Subcontractors must be equal opportunity employers.

(f) Contractors must notify and receive approval from the respective Department Head prior to issuing any Subcontracts and, at the time of requesting such authorization, must submit a signed Best Efforts Checklist.

(g) Contractors for projects under the supervision of the County’s Department of Public Works shall also submit a utilization plan listing all proposed Subcontractors so that, to the greatest extent feasible, all Subcontractors will be approved prior to commencement of work. Any additions or changes to the list of subcontractors under the utilization plan shall be approved by the Commissioner of the Department of Public Works when made. A copy of the utilization plan any additions or changes thereto shall be submitted by the Contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.

(h) At any time after Subcontractor approval has been requested and prior to being granted, the contracting agency may require the Contractor to submit Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises. In addition, the contracting agency may require the Contractor to submit such documentation at any time after Subcontractor approval when the contracting agency has reasonable cause to believe that the existing Best Efforts Checklist may be inaccurate. Within ten working days (10) of any such request by the contracting agency, the Contractor must submit Documentation.

(i) In the case where a request is made by the contracting agency or a Deputy County Executive acting on behalf of the contracting agency, the Contractor must, within two (2) working days of such request, submit evidence to demonstrate that it employed Best Efforts to obtain Certified MWBE participation through proper documentation.
(j) Award of a County Contract alone shall not be deemed or interpreted as approval of all Contractors’ Subcontracts and Contractor’s fulfillment of Best Efforts to obtain participation by Certified MWBEs.

(k) A Contractor shall maintain Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises for a period of six (6) years. Failure to maintain such records shall be deemed failure to make Best Efforts to comply with this Appendix EE, evidence of false certification as MWBE compliant or considered breach of the County Contract.

(l) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 providing for enforcement of violations as follows:

a. Upon receipt by the Executive Director of a complaint from a contracting agency that a County Contractor has failed to comply with the provisions of Local Law No. 14-2002, this Appendix EE or any other contractual provisions included in furtherance of Local Law No. 14-2002, the Executive Director will try to resolve the matter.

b. If efforts to resolve such matter to the satisfaction of all parties are unsuccessful, the Executive Director shall refer the matter, within thirty days (30) of receipt of the complaint, to the American Arbitration Association for proceeding thereon.

c. Upon conclusion of the arbitration proceedings, the arbitrator shall submit to the Executive Director his recommendations regarding the imposition of sanctions, fines or penalties. The Executive Director shall either (i) adopt the recommendation of the arbitrator (ii) determine that no sanctions, fines or penalties should be imposed or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty. The Executive Director, within ten days (10) of receipt of the arbitrators award and recommendations, shall file a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail return receipt requested. The award of the arbitrator, and the fines and penalties imposed by the Executive Director, shall be final determinations and may only be vacated or modified as provided in the civil practice law and rules (“CPLR”).

(m) The Contractor shall provide contracting agency with information regarding all subcontracts awarded under any County Contract, including the amount of compensation paid to each Subcontractor and shall complete all forms provided by the Executive Director or the Department Head relating to subcontractor utilization and efforts to obtain MWBE participation.

Failure to comply with provisions (a) through (m) above, as ultimately determined by the Executive Director, shall be a material breach of the contract constituting grounds for immediate termination. Once a final determination of failure to comply has been reached by the Executive Director, the determination of whether to terminate a contract shall rest with the Deputy County Executive with oversight responsibility for the contracting agency.

As used in this Appendix EE the term “Best Efforts Checklist” shall mean a list signed by the Contractor, listing the procedures it has undertaken to procure Subcontractors in accordance with this Appendix EE.

As used in this Appendix EE the term “County Contract” shall mean (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars ($25,000), whereby a County contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the County; or (ii) a written agreement in excess of one hundred thousand dollars ($100,000), whereby a County contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. However, the term “County Contract” does not include agreements or orders for the following services: banking services, insurance policies or contracts, or contracts with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Appendix EE the term “County Contractor” means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in
connection with the award of a County Contract, or (iii) a proposed party to a County Contract, but shall not include any Subcontractor.

As used in this Appendix EE the term “County Contractor” shall mean a person or firm who will manage and be responsible for an entire contracted project.

As used in this Appendix EE “Documentation Demonstrating Best Efforts to Obtain Certified Minority or Women-owned Business Enterprises” shall include, but is not limited to the following:

a. Proof of having advertised for bids, where appropriate, in minority publications, trade newspapers/notices and magazines, trade and union publications, and publications of general circulation in Nassau County and surrounding areas or having verbally solicited MWBEs whom the County Contractor reasonably believed might have the qualifications to do the work. A copy of the advertisement, if used, shall be included to demonstrate that it contained language indicating that the County Contractor welcomed bids and quotes from MWBE Subcontractors. In addition, proof of the date(s) any such advertisements appeared must be included in the Best Effort Documentation. If verbal solicitation is used, a County Contractor’s affidavit with a notary’s signature and stamp shall be required as part of the documentation.

b. Proof of having provided reasonable time for MWBE Subcontractors to respond to bid opportunities according to industry norms and standards. A chart outlining the schedule/time frame used to obtain bids from MWBEs is suggested to be included with the Best Effort Documentation.

c. Proof or affidavit of follow-up of telephone calls with potential MWBE Subcontractors encouraging their participation. Telephone logs indicating such action can be included with the Best Effort Documentation.

d. Proof or affidavit that MWBE Subcontractors were allowed to review bid specifications, blue prints and all other bid/RFP related items at no charge to the MWBEs, other than reasonable documentation costs incurred by the County Contractor that are passed onto the MWBE.

e. Proof or affidavit that sufficient time prior to making award was allowed for MWBEs to participate effectively, to the extent practicable given the timeframe of the County Contract.

f. Proof or affidavit that negotiations were held in Best Efforts with interested MWBEs, and that MWBEs were not rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of MWBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance. The basis for rejecting any MWBE deemed unqualified by the County Contractor shall be included in the Best Effort Documentation.

g. If an MWBE is rejected based on cost, the County Contractor must submit a list of all sub-bidders for each item of work solicited and their bid prices for the work.

h. The conditions of performance expected of Subcontractors by the County Contractor must also be included with the Best Effort Documentation.

i. County Contractors may include any other type of documentation they feel necessary to further demonstrate their Best Efforts regarding their bid documents.

As used in this Appendix EE the term “Executive Director” shall mean the Executive Director of the Nassau County Office of Minority Affairs; provided, however, that Executive Director shall include a designee of the Executive Director except in the case of final determinations issued pursuant to Section (a) through (l) of these rules.

As used in this Appendix EE the term “Subcontract” shall mean an agreement consisting of part or parts of the contracted work of the County Contractor.

As used in this Appendix EE, the term “Subcontractor” shall mean a person or firm who performs part or parts of the contracted work of a prime contractor providing services, including construction services, to the County pursuant to a
county contract. Subcontractor shall include a person or firm that provides labor, professional or other services, materials or supplies to a prime contractor that are necessary for the prime contractor to fulfill its obligations to provide services to the County pursuant to a county contract. Subcontractor shall not include a supplier of materials to a contractor who has contracted to provide goods but no services to the County, nor a supplier of incidental materials to a contractor, such as office supplies, tools and other items of nominal cost that are utilized in the performance of a service contract.

Provisions requiring Contractors to retain or submit documentation of best efforts to utilize certified subcontractors and requiring Department head approval prior to subcontracting shall not apply to inter-governmental agreements. In addition, the tracking of expenditures of County dollars by not-for-profit corporations, other municipalities, States, or the federal government is not required.