

ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VIRGINIA 22201

CONTRACT AWARD COVERPAGE

<b>TO:</b> ALAN TYE & ASSOCIATES, LC	<b>DATE ISSUED:</b>	<u>6/19/2020</u>
9669-D MAIN STREET	<b>CONTRACT NO:</b>	<u>20-157-ITB</u>
FAIRFAX, VIRGINIA 22031	<b>CONTRACT TITLE:</b>	<u>STERTIL KONI INGROUND LIFTS</u>

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**THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.**

The contract documents consist of the terms and conditions of AGREEMENT No. 20-157-ITB including any attachments or amendments thereto.

**EFFECTIVE DATE:** IMMEDIATELY

**EXPIRES:** 6/30/2021

**RENEWALS:** FOUR RENEWALS REMAINING

**COMMODITY CODE(S):** 56075

**LIVING WAGE:** N

**EMPLOYEES NOT TO BENEFIT:**

**NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.**

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<b><u>VENDOR CONTACT:</u></b> DAVID BRADLEY	<b><u>VENDOR TEL. NO.:</u></b>	<u>(703) 560-7011</u>
<b><u>EMAIL ADDRESS:</u></b> DAVE@ALANTYELIFTS.COM		
<b><u>COUNTY CONTACT:</u></b> CARMEN RIBERA (DES-EB)	<b><u>COUNTY TEL. NO.:</u></b>	<u>(703) 228-6465</u>
<b><u>COUNTY CONTACT EMAIL:</u></b> CRIVERA@ARLINGTONVA.US		

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**PURCHASING DIVISION AUTHORIZATION**

<u>Lucas Alexander</u>	<b>Title</b> PROCUREMENT OFFICER	<b>Date</b> 6/19/2020
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**ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
SUITE 500, 2100 CLARENDON BOULEVARD  
ARLINGTON, VA 22201**

**AGREEMENT NO. 20-157-ITB**

THIS AGREEMENT is made, on the date of execution by the County, between Alan Tye & Associates, LC, a Virginia limited liability company, with a principal place of business located at 9669-D Main Street, Fairfax Virginia 22031, authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follows:

**1. CONTRACT DOCUMENTS**

The "Contract Documents" consist of this Agreement, Exhibit A – Scope of Work, and Exhibit B – Pricing Sheet.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

**2. SCOPE OF WORK**

The Contractor agrees to provide the goods described in the Contract Documents (the "Work"), more particularly described in the Specifications included with the Invitation to Bid. The primary purpose of the Work is to provide OEM parts & repair services for the County's Stertil-Koni Lifts. It will be the Contractor's responsibility, at its sole cost, to provide the specific goods set forth in the Contract Documents and sufficient goods to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor's responsibility to manage the details and execution of the Work.

**3. PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

**4. CONTRACT TERM**

Time is of the essence. The Work will commence on the date of the execution of the Agreement by the County and must be completed no later than June 30, 2021 ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a unilateral Notice of Award, authorize continuation of the Agreement under the same contract prices for not more than four (4) additional 12-month periods, from July 1, 2021 until June 30, 2025 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

**5. CONTRACT PRICING**

Unless otherwise provided in the Contract Documents, the Contractor shall provide the goods covered in the County's Invitation to Bid No. 20-157-ITB at the prices provided in the bid of the Contractor.

**6. PAYMENT**

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. Each invoice must certify that the invoice submitted is a true and accurate accounting of the work performed and goods and/or services provided and must be signed and attested to by the Contractor or authorized designee. The County will pay the Contractor within 45 days after receipt of an invoice for completed work or goods that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer. The number of the County Purchase Order pursuant to which goods have been delivered or performed must appear on all invoices.

**7. PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

**8. NO WAIVER OF RIGHTS**

The County's approval or acceptance of or payment for any goods under this Contract will not waive any rights or causes of action arising out of the Contract.

**9. NON-APPROPRIATION**

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

**10. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR**

This Contract does not obligate the County to purchase a specific quantity of items during the Contract Term. Any quantities that are included in the Contract Documents are the present expectations of the County for the period of the Contract; and the County is under no obligation to buy that or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The County may require more goods than the estimated annual quantities, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates in the Contract.

The County does not guarantee that the Contractor will be the exclusive provider of the goods covered by this Contract. The items covered by this Contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items through those contract(s).

**11. COUNTY PURCHASE ORDER REQUIREMENT**

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

**12. DELIVERY**

All goods are purchased F.O.B. destination in Arlington County as described in the specifications. Transportation, handling and all related charges are included in the unit prices or discounts that the Contractor submitted with its bid.

**13. WARRANTY**

The Contractor guarantees against and will correct at its expense factory defects that occur during the manufacturer's standard warranty period. The Contractor will provide all manufacturers' warranties at the time of delivery.

**14. INSPECTION, ACCEPTANCE, TITLE, AND RISK OF LOSS**

The County will inspect all materials at the delivery location within ten days of delivery and may test the goods at its sees fit before accepting them.

The Contractor warrants that it has good title to, and will require all subcontractors to warrant that they have good title to, all delivered goods.

The Contractor bears title and risk of loss or damage to all delivered goods until the County accepts them.

Neither the Contractor nor any subcontractor may retain any interest in the goods after the County accepts them.

**15. OSHA REQUIREMENTS**

The Contractor certifies that all material supplied or used under this Contract meets all federal and state Occupational Safety and Health Administration ("OSHA") requirements. If the material does not meet the OSHA requirements, the Contractor will bear all costs necessary to bring the material into compliance.

**16. HAZARDOUS MATERIALS**

The Contractor must comply with all federal, state, and local laws governing the storage, transportation, and use of toxic and hazardous materials. The County is subject to the Hazard Communication Standard, 29 CFR § 1910.1200 ("Standard"). The Contractor will provide, no later than delivery or first use of the materials, Material Safety Data Sheets ("MSDS") for all hazardous materials supplied to the County or used in the performance of the Work. The Contractor will also ensure that all shipping and internal containers bear labels that meets the requirements of the Standard. The County may refuse shipments of hazardous materials that are not appropriately labeled or for which the Contractor has not timely provided MSDS. The Contractor must pay any expenses that it or the County incurs as a result of the County's refusal of goods under this section or rejection of MSDS.

**17. FAILURE TO DELIVER**

If the Contractor does not deliver the goods or services required by the Scope of Work, the County may procure the goods or services from other sources at the Contractor's expense, including purchase and administrative costs, and may offset the costs against any amount that the County owes the Contractor. The County must provide the Contractor written notice of the deficiency and may choose to provide an opportunity to cure. This remedy is in addition to the County's other remedies for the Contractor's failure to perform.

**18. UNSATISFACTORY WORK**

The Contractor must within 15 days of written notice from the County remove and replace, at its expense, any goods that the County rejects as unsatisfactory. Otherwise, the County may choose to remove or replace the rejected goods at the Contractor's expense. The County may offset the costs against any amounts that it owes the Contractor. The County may also decide not to remove or replace the unsatisfactory goods and instead to adjust the Contract Amount to account for the unsatisfactory performance. This paragraph applies throughout the Contract Term and any warranty or guarantee period.

**19. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.

- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

**20. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

**21. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

**22. TERMINATION**

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

**A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE**

1. Termination for Unsatisfactory Performance. If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for

termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

#### **B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY**

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

#### **23. INDEMNIFICATION**

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses,

including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

#### **24. INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

#### **25. COPYRIGHT**

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

#### **26. ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its bid was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money,



services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

**27. COUNTY EMPLOYEES**

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

**28. FORCE MAJEURE**

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract.

**29. AUTHORITY TO TRANSACT BUSINESS**

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

**30. RELATION TO COUNTY**

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

**31. ANTITRUST**

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

**32. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

**33. ASSIGNMENT**

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County.

**34. AMENDMENTS**

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

**35. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

**36. DISPUTE RESOLUTION**

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

**37. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION**

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

**38. ARBITRATION**

No claim arising under or related to this Contract may be subject to arbitration.

**39. NONEXCLUSIVITY OF REMEDIES**

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

**40. NO WAIVER**

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

**41. SEVERABILITY**

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

**42. ATTORNEY'S FEES**

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

**43. SURVIVAL OF TERMS**

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY

INDEMNIFICATION; RELATION TO COUNTY; AUDIT; COPYRIGHT; WARRANTY; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; AND ATTORNEY'S FEES.

**44. HEADINGS**

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

**45. AMBIGUITIES**

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

**46. NOTICES**

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

**Contact Information for the Contractor:**

David Bradley, Service Manager  
Alan Tye & Associates, LC  
9669-D Main Street  
Fairfax, Virginia 22031

**Contact Information for the Department (DES – Equipment Bureau)**

Cristian Matthew Davila, Project Officer  
2701 South Taylor Street  
Arlington, Virginia 22206

**Contact Information for Arlington County (Legal Authorization):**

Office of the Purchasing Agent  
2100 Clarendon Boulevard, Suite 500  
Arlington, VA 22201

**47. ARLINGTON COUNTY BUSINESS LICENSES**

The Contractor must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

**48. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

**49. INSURANCE REQUIREMENTS**

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as

otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of “A-” or better and a financial size of “Class VII” or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer’s liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- e. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- f. Claims-Made Coverage - Any “claims made” policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- g. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County’s approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County’s acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

#### **56. COUNTERPARTS**

This Agreement may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or other electronic transmission (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

DocuSigned by:  
*Lucas Alexander*  
5D2342428F9D4B4...

NAME AND TITLE: LUCAS ALEXANDER  
PROCUREMENT OFFICER

6/19/2020  
DATE: \_\_\_\_\_

ALAN TYE & ASSOCIATES, LC

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

DocuSigned by:  
*David Bradley*  
5A892DE8FEA2481...

NAME AND TITLE: David Bradley  
Service Manager

6/11/2020  
DATE: \_\_\_\_\_

### **Exhibit A – Scope of Work**

Arlington County will receive bids for the provision of Stertil-Koni Mobile and Fixed Heavy-duty Lifts on-site warranty, repair services, preventative maintenance services and inspections.

#### **I. Repair Services and Preventative Maintenance**

The Contractor shall provide Original Equipment Manufacturer (OEM) repair services for the County's sixteen (16) Stertil-Koni Mobile and Fixed Heavy-duty Lifts (Stertil-Koni Lifts). The Contractor will provide on-site repair services, preventative maintenance services and inspections. On request, the Contractor shall travel to the Arlington County Equipment Bureau, located at 2701 S. Taylor St. Arlington, VA 22206 to provide all preventative maintenance and repair services. The labor rates provided shall include all direct and indirect costs.

Preventative maintenance shall be performed on the County's Stertil-Koni Lifts twice annually at a time agreed upon between the County and the Contractor.

The Contractor will also provide all American National Standards Institute/Automotive Lift Institute and Automotive Lifts Operation, Inspections and Maintenance (ANSI/ALI and ALOIM) safety inspections on a yearly basis at a time agreed upon between the County and the Contractor.

##### **a) Repair Services**

Repair services will be provided by the Contractor on an as needed basis at the request of the County. Services provided by the Contractor will be provided at the hourly labor rate as indicated on the bid form. The County will inspect all repairs and determine that repairs have been completed as requested. After the County inspects the lift, if it is determined that repairs have not met the quality set forth in the Contract, the Contractor shall complete any necessary repair within 48 hours.

##### **b) Preventative Maintenance**

Preventative Maintenance to the County's Stertil-Koni Lifts will be performed on a bi-annual basis. Preventative maintenance will include all the required maintenance noted in the Stertil-Koni Lifts owner's manuals. See Attachment A for a list of the County's current Stertil-Koni lifts.

##### **a) ANSI/ALI and ALOIM**

The Contractor will provide ANSI/ALI and ALOIM standard safety inspections on an annual basis to certify that the County's automotive lifts are in safe working order. Inspections provided by the contractor will conform to all the standards as outlined in the ANSI/ALI and ALOIM maintenance and inspections manual as published by the Automotive Lift Institute.

The Contractor shall perform all preventative maintenance, inspections and on-site repair services to the County's Stertil-Koni Lifts between the hours of 8:00am and 5:00pm Monday through Friday. At the request of the County, the Contractor shall keep the Equipment Bureau updated with the status of work, as well as any delays of Stertil-Koni Lift repairs and preventative maintenance every 24 hours.

**II. Original Equipment Manufacturer (OEM) Parts**

The Contractor shall provide Stertil-Koni Lifts OEM parts to the Arlington County Equipment Bureau. The Contractor shall provide parts at a percentage discount from manufacturer's list price. The price list used shall be the most recent manufacturer's price list. Bidders will provide a URL link or copy of the current manufacturer's price list with their bids. The percentage discount provided on the bid form must be a single discount applicable to all parts. The percentage discount provided on the bid form will remain firm throughout the Contract Term.

The Contractor shall apply the percentage discount to the unit price in effect at the time of the order is placed. The discount percentage shall remain firm for the duration of the Contract Term.

**III. Warranty**

Services provided by the Contractor shall be warranted for a minimum of 30 days from the point which the County pays the service invoice.

**IV. Equipment List**

#	Lift Brand	Model
1	Stertil-Koni	ECO-60
2	Stertil-Koni	ECO-60
3	Stertil-Koni	ECO-60
4	Stertil-Koni	ECO-60
5	Stertil-Koni	ECO-60
6	Stertil-Koni	ECO-60
7	Stertil-Koni	ECO-90
8	Stertil-Koni	ECO-90
9	Stertil-Koni	ST-1065
10	Stertil-Koni	ST-1065
11	Stertil-Koni	ST-1065
12	Stertil-Koni	ST-1065
13	Stertil-Koni	ST-1065
14	Stertil-Koni	ST-1065
15	Stertil-Koni	ST-1065
16	Stertil-Koni	ST-1065

**V. Pricing**

With their bid, bidders will provide an hourly labor rate for repair services, and annual preventative maintenance cost, and an annual safety inspection cost. Bidders shall submit a percentage discount for OEM parts to be considered for award. Bidders will include a URL link or copy of current manufacturer's price list with their bid.

EXHIBIT B - PRICING SHEET

Item	Unit	Unit Price	Estimated Quantities	Extended Price
Repair Services	Hourly	135	200	<u>27000</u>
Preventitive Maintenance	Yearly	285	1	<u>285</u>
ANSI/ALI & ALOIM Standard Safety Inspections	Yearly	325	1	<u>325</u>
			GRAND TOTAL:	<u>27610</u>
Percentage Discount OEM Parts	%	10	1	<u>10</u>
URL Link: _____				