

STATEMENT OF WORK
To Contract Dated 05/15/2012 - Contract Routing Number 12 FAA 43891

These provisions are to be read and interpreted in conjunction with the provisions of the Contract specified above.

I. Project Description:

The Colorado Department of Public Health and Environment Laboratory Services Division is purchasing approximately 200 Evidential Breath Alcohol Testing, (EBAT) instruments, peripherals, supplies, associated training and operating software to replace the current inventory for the State of Colorado's DUI/DWAI Breath Alcohol Testing Program.

This is a ten year agreement for equipment purchases and maintenance. The contract period shall be from the date of contract execution through May 14, 2022 at the sole discretion of the Department.

II. Performance Requirements/Deliverables:

Contractor will deliver 200 Intoxilyzer 9000 instruments; provide operating software (State procuring license), on-site/factory training, peripherals, and supplies per the schedule listed in Exhibit C, EBAT Intoxilyzer Replacement Project Timeline. Total project cost shall be within the total set out in Exhibit D, 10 Year Budget – Intoxilyzer Purchase and Maintenance Supplies Contract.

Equipment shall comply with all standards listed in Attachment B-1, CMI Submission to RFP No. TM-LD121208. Instrument and peripheral pricing will be as listed in the Contractor quotation #WTS 041622012-A (Attachment A-1).

Training: EBAT staff will attend factory training as listed in the Cost Section on page 40 of Attachment B-1. Three staff members will attend courses in July 2012 at a cost of \$590 each. One additional staff member will attend factory training before June 2013.

III. Monitoring:

CDPHE's monitoring of this contract for compliance with performance requirements will be conducted throughout the contract period by the EBAT Program Manager. Methods used will include review of documentation reflective of performance to include progress reports, performance audits, and electronic data, etc. The Contractor's performance will be evaluated at set intervals and communicated to the contractor. A Final Contractor Performance Evaluation will be conducted at the end of the life of the contract.

IV. Resolution of Non-Compliance:

The Contractor will be notified by email within 10 calendar days of discovery of a compliance issue. The Contractor will be notified by email within 10 calendar days of discovery of a compliance issue. The Contractor and the State will collaborate, when appropriate, to determine the action(s) necessary to rectify the compliance issue and determine when the action(s) must be completed. If the equipment is still inoperable after reasonable service attempts, the CMI Factory Board Exchange program listed on page 64 of Attachment B-1 will be implemented. The action(s) and time line for completion will be documented by email and agreed to by both parties. If extenuating circumstances arise that requires an extension to the time line, the Contractor must email a request to the Fiscal Officer and receive approval for a new due date. The State will oversee the completion/ implementation of the action(s) to ensure time lines are met and the issue(s) is resolved. If the Contractor demonstrates inaction or disregard for the agreed upon compliance resolution plan, the State may exercise its rights under the Remedies section of the General Provisions of this contract.



A Division of MPD, Inc.

Quotation No. WTS 042622012-A

Bill To

Ship to

CDPHE/LSD
8100 Lowry Blvd
Denver, CO 80230

CDPHE/LSD
8100 Lowry Blvd
Denver, CO 80230

Quotation Details:

Date: 26-Apr-2012

Description of Equipment	Price	Qty	Amount
Guth 12V500 Simulator w/ Guth 2100 trade-in	\$899.00	1	\$899.00
Note: The number of trade-ins is limited to 25			
Note: The 12V500 simulator price without a trade in is \$949.00			
	Subtotal		\$899.00
	Shipping		
	Total		\$899.00

Tom Settles

These commodities are licensed for the ultimate destination shown.

Diversion contrary to United States law is prohibited

CMI, Inc. represents that the goods covered by this quotation have been produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.



A Division of MPD, Inc.

Quotation No. WTS 041622012-A

Bill To

Ship to

CDPHE/LSD
8100 Lowry Blvd
Denver, CO 80230

CDPHE/LSD
8100 Lowry Blvd
Denver, CO 80230

Quotation Details:

Date: 16-Apr-2012

Description of Equipment	Price	Qty	Amount
Intoxilyzer 9000	\$5,397.00	1	\$5,397.00
Volume Discounted Accessory Pricing			
Internal Magnetic Stripe Reader	\$213.75	1	\$213.75
External USB Signature Pad	\$323.00	1	\$323.00
Gas Delivery System	\$403.75	1	\$403.75
USB Laser Jet Printer	\$249.00	1	\$249.00
Mouthpieces (100 count box)	\$25.00		\$25.00
	Subtotal		\$6,611.50
	Shipping		
	Total		\$6,611.50

Tom Settles

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CMI, Inc. represents that the goods covered by this quotation have been produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.

the Contractor of the failure or deficiencies, in writing, within ten (10) calendar days of: 1) the date the deliverable is delivered to the State by the Contractor if the State is aware of the failure or deficiency at the time of delivery; or 2) the date the State becomes aware of the failure or deficiency. The above time frame shall apply to all deliverables except for those deliverables that have a different time negotiated by the State and the Contractor in writing pursuant to the State's fiscal rules.

- c. Time to Correct Defect. Upon receipt of timely written notice of an objection to a completed deliverable, the Contractor shall have a reasonable period of time, not to exceed thirty (30) calendar days, to correct the noted deficiencies.

5. Modifications To The Request for Proposal.

- a. None

6. Health Insurance Portability and Accountability Act (HIPAA) Business Associate Determination.

The State has determined that this contract does not constitute a Business Associate relationship under HIPAA.

7. Instrument Definition: Each Evidential Breath Alcohol Testing Unit purchased during the life of this contract shall consist of:

CMI 9000 (to include instrument, adjustable base, and full sized USB keyboard)	\$5,397.00
Integrated Mag stripe reader	\$213.75
Signature Pad (USB)	\$323.00
Printer (USB)	\$249.00
Mouthpieces (100 count box)	\$25.00
Gas Delivery System	<u>\$403.75</u>
Total	\$6,611.50

As listed in Attachment A-1, Contractor quotation #WTS 041622012-A.

8. Simulators: In addition, the Division will purchase 387 Guth 12V500 Simulators. The Contractor agrees to accept 250 Guth 2100 simulators currently in use in the Statewide Evidential Breathalyzer Analyzer Testing program as a trade in for \$50 per unit. The price for a Guth 12V500 simulator without a trade-in is \$949.00 and \$899.00 with a trade-in. Therefore, the Division will purchase 250 simulators at \$899 for a total of \$224,750 and 137 simulators at \$949 for a total of \$130,013. Total amount for 387 simulators is therefore estimated at \$354,763.
9. Freight: The Contractor shall pay all costs associated with the shipment of instruments and consumables. All shipments shall be Freight on Board Destination. Contractor shall assume all liability for insuring products while in transit.
10. Operating system: State will purchase user licenses for the COBRA data management system. The State will customize, in conjunction with the Contractor, the data management system to meet program requirements. The cost for three licensees will be \$8,500. Contractor will provide the COBRA data management system for customization no later than ten days after contract signing. Final configuration will be completed September 1, 2012.
11. Intellectual Property for Intoxilyzer 9000: The Contractor will retain intellectual property rights, including but not limited to source code and instrument operational software, for the Intoxilyzer 9000.

ADDITIONAL PROVISIONS
To Contract Dated 05/15/2012 - Contract Routing Number 12 FAA 43891

These provisions are to be read and interpreted in conjunction with the provisions of the contract specified above.

1. This contract contains federal funds (see Catalog of Federal Domestic Assistance (CFDA) number 16.738)
2. The United State Department of Justice, Bureau of Justice Assistance ("USDJ"), through the Colorado Division of Criminal Justice ("CDOJ") has awarded federal funds under Notice of Cooperative Agreement Award, hereinafter "NCAA", number 2010-DJ-BX-0316, to perform the following – Evidential EBAT Equipment Replacement Project.

The underlying Notice of Cooperative Agreement Award "NCAA" authorizes the State to pay seventy-five percent of the instrument price and requires participating local law enforcement agencies to pay twenty-five percent of the instrument price. The Contractor shall invoice the State and the local law enforcement agencies accordingly. The State shall provide a list of the participating local law enforcement agencies to the Contractor prior to June 1, 2012.

3. To receive compensation under this Contract, the Contractor shall submit an invoice upon shipping of the instruments and other deliverables. Consumable and other maintenance supplies shall be invoiced at the time the items are shipped to the State. Invoices must be submitted within thirty (30) calendar days of the instrument, consumable or supply shipment date. Expenditures shall be in accordance with the Statement of Work attached hereto as Exhibit B and incorporated herein and the associated Budget attached hereto as Exhibit D and incorporated herein.

The Contractor shall provide the following documentation with the completed invoice; a complete instrument listing to include model number, serial number, and total quantity shipped along with shipment tracking details. Invoices for training, software, and supplies shall list the specific products delivered at a per unit price as well as a total price. This supporting documentation shall be submitted to:

Andrea Smith, Fiscal Officer
 Laboratory Services Division, Fiscal Office
 Colorado Department of Public Health and Environment
 4300 Cherry Creek Drive South
 Denver, Colorado 80246

To be considered for payment, billings for payments pursuant to this Contract must be received within a reasonable time after the period for which payment is requested, but in no event no later than thirty (30) calendar days after the relevant performance period has passed. Final billings under this Contract must be received by the State within a reasonable time after the expiration or termination of this Contract; but in no event no later than thirty (30) calendar days from the effective expiration or termination date of this Contract.

Unless otherwise provided for in this Contract, "Local Match", if any, shall be included on all invoices as required by funding source.

4. Time Limit For Acceptance Of Deliverables.
 - a. Evaluation Period. The State shall have thirty (30) calendar days from the date an instrument is delivered to the State by the Contractor to evaluate and accept that instrument.
 - b. Notice of Defect. If the State believes in good faith that a deliverable fails to meet the design specifications for that particular deliverable, or is otherwise deficient, then the State shall notify

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THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.

CONTRACTOR:

CMI, Inc.
Legal Name of Contracting Entity

Toby S. Hall
Signature of Authorized Officer

Toby S. Hall
Print Name of Authorized Officer

President
Print Title of Authorized Officer

STATE OF COLORADO:

**JOHN W. HICKENLOOPER,
GOVERNOR**

By: David M. Gaven
For Executive Director

Department of Public Health and Environment

Department Program Approval:

By: David A. Butcher

LEGAL REVIEW

John W. Suthers, Attorney General

By: N/A

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER:

David J. McDermott, CPA

By: David J. McDermott

Date: 5-18-12

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10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements]

Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

Revised 1-1-09

SPECIAL PROVISIONS

These Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL.** CRS §24-30-202(1). This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY.** CRS §24-30-202(5.5). Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION.** Governor's Executive Order D 002 00. State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST.** CRS §§24-18-201 and 24-50-507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

Department of Public Health and Environment and showing of good cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final evaluation and result by: (i) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (ii) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

27. **Annual Audits.** If the Contractor expends federal funds from all sources (direct or from pass-through entities) in an amount of \$500,000 or more during its fiscal year, then the Contractor shall have an audit of that fiscal year in accordance with Office of Management and Budget (OMB) Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations). If the Contractor expends federal funds received from the State in an amount of \$500,000 or more during its fiscal year, then the Contractor shall furnish one (1) copy of the audit report(s) to the State's Internal Audit Office within thirty (30) calendar days after the Contractor's receipt of its auditor's report or nine (9) months after the end of the Contractor's audit period, whichever is earlier. If (an) instance(s) of noncompliance with federal laws and regulations occurs, then the Contractor shall take all appropriate corrective action(s) within six (6) months of the issuance of (a) report(s).

If the Contractor submits an annual indirect cost proposal to the State for review and approval, then the Contractor's auditor shall audit the proposal in accordance with the requirements of OMB Circulars A-21 (Cost Principles for Educational Institutions), A-87 (Cost Principles for State, Local, and Tribal Governments), or A-122 (Cost Principles for Non-Profit Organizations), whichever is applicable.

28. **Holdover.** In the event that the State desires to continue the services provided for in this Contract and a replacement contract has not been fully executed by the expiration date of the Contract, this Contract may be extended unilaterally by the State for a period of up to two (2) months upon written notice to the Contractor under the same terms and conditions of the original Contract including, but not limited to, prices, rates, and service delivery requirements. However, this extension terminates when the replacement contract becomes effective when signed by the State Controller or an authorized delegate.
29. **Survival of Certain Contract Terms.** Notwithstanding anything in this contract to the contrary, the parties understand and agree that all terms and conditions of this contract which may require continued performance, compliance, or effect beyond the termination date of the contract and shall survive such termination date and shall be enforceable by the State as provided herein in the event of failure to perform or comply by the Contractor.
30. **Indemnification.** Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.
31. **STATEWIDE CONTRACT MANAGEMENT SYSTEM** *[This section shall apply when the Effective Date is on or after July 1, 2009 and the maximum amount payable to Contractor hereunder is \$100,000 or higher]*

By entering into this Contract, Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be evaluated in accordance with the terms and conditions of this Contract, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of the Statement of Project of this Contract. Such performance information shall be entered into the statewide Contract Management System at intervals established in the Statement of Project and a final review and rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance evaluation determine that Contractor demonstrated a gross failure to meet the performance measures established under the Statement of Project, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Colorado

25. Conformance with Law. If this Contract involves federal funds or compliance is otherwise federally mandated, the Contractor and its agent(s) shall at all times during the term of this contract strictly adhere to all applicable federal laws, state laws, Executive Orders and implementing regulations as they currently exist and may hereafter be amended. Without limitation, these federal laws and regulations include:
- a. Office of Management and Budget Circulars A-21, A-87, A-102, A-110, A-122, A-133, and The Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, as applicable;
 - b. the "Hatch Act" (5 U.S.C. 1501-1508) and Public Law 95-454, Section 4728. These federal statutes declare that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs;
 - c. the "Davis-Bacon Act" (40 U.S.C. 276A-276A-5). This federal Act requires that all laborers and mechanics employed by contractors or subcontractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor;
 - d. 42 U.S.C. 6101 *et seq.*, 42 U.S.C. 2000d, 29 U.S.C. 794. These federal Acts mandate that no person shall, on the grounds of race, color, national origin, age, or disability, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or in part, by federal funds;
 - e. the "Americans with Disabilities Act" (Public Law 101-336; 42 U.S.C. 12101, 12102, 12111 - 12117, 12131 - 12134, 12141 - 12150, 12161 - 12165, 12181 - 12189, 12201 - 12213 and 47 U.S.C. 225 and 47 U.S.C. 611);
 - f. if the Contractor is acquiring an interest in real property and displacing households or businesses in the performance of this Contract, then the Contractor is in compliance with the "Uniform Relocation Assistance and Real Property Acquisition Policies Act", as amended, (Public Law 91-646, as amended, and Public Law 100-17, 101 Stat. 246 - 256);
 - g. when applicable, the Contractor shall comply with the provisions of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (Common Rule);
 - h. Section 2101 of the Federal Acquisition Streamlining Act of 1994, Public Law 103-355, which prohibits the use of federal money to lobby the legislative body of a political subdivision of a State; and
 - i. If the Contractor is a covered entity under the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d - 1320d-8, the Contractor shall comply with applicable HIPAA requirements. If Contractor is a business associate under HIPAA, Contractor hereby agrees to, and has an affirmative duty to, execute the State's current HIPAA Business Associate Agreement. In this case, Contractor must contact the State's representative and request a copy of the Business Associate Agreement, complete the agreement, have it signed by an authorized representative of the Contractor, and deliver it to the State.
 - j. The Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6062 of Public Law 110-252, including without limitation all data reporting requirements required there under. This Act is also referred to as FFATA.

26. Contractor Affirmation. If this Contract involves federal funds or compliance is otherwise federally mandated, then by signing and submitting this Contract the Contractor affirmatively avers that:

- a. the Contractor is in compliance with the requirements of the "Drug-Free Workplace Act" (Public Law 100-690 Title V, Subtitle D, 41 U.S.C. 701 *et seq.*);
- b. the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; the Contractor shall comply with all applicable regulations pursuant to Executive Order 12549, including, Debarment and Suspension and Participants' Responsibilities, 29 C.F.R. 98.510 (1990); and,
- c. the Contractor shall comply with all applicable regulations pursuant to Section 319 of Public Law 101-121, Guidance for New Restrictions on Lobbying, including, Certification and Disclosure, 29 C.F.R. 93.110(1990).

- i. Media or Public Announcements. Unless otherwise provided for in this Contract, the Contractor shall not make any news release, publicity statement, or other public announcement, either in written or oral form that concerns the work provided under this Contract, without the prior written approval of the State. The Contractor shall submit a written request for approval to the State no less than ten (10) business days before the proposed date of publication. The State shall not unreasonably withhold approval of the Contractor's written request to publish. Approval or denial of the Contractor's request by the State, shall be delivered to the Contractor in writing within six (6) business days from the date of the State's receipt of Contractor's request for approval.

If required by the terms and conditions of a federal or state grant, the Contractor shall obtain the prior approval of the State and all necessary third parties prior to publishing any materials produced under this Contract. If required by the terms and conditions of a federal or state grant, the Contractor shall also credit the State and all necessary third parties with assisting in the publication of any materials produced under this Contract. It shall be the obligation of the Contractor to inquire of the State as to whether these requirements exist and obtain written notification from the State, as Contractor deems appropriate.

24. Intellectual Indemnity. Contractor shall defend, at its sole expense, any claim(s) or suit(s) brought against the State alleging that the use by the State of any product(s), or any part thereof, supplied by Contractor under this agreement constitutes infringement of any patent, copyright, trademark, or other proprietary rights, provided that the State gives Contractor written notice within twenty (20) days of receipt by the State of such notice of such claim or suit, provides assistance and cooperation to Contractor in connection with such action, and Contractor has sole authority to defend or settle the claim. Contractor shall consult the State regarding such defense and the State may, at its discretion and expense, participate in any defense. Should the State not choose to participate, Contractor shall keep the State advised of any settlement or defense.

Contractor shall have liability for all such claims or suits, except as expressly provided herein, and shall indemnify the State for all liability incurred by the State as a result of such infringement. Contractor shall pay all reasonable out-of-pocket costs and expenses, and damages finally awarded by a court of competent jurisdiction, awarded or agreed to by Contractor regarding such claims or suits.

If the product(s), or any part thereof, become the subject of any claim, suit or proceeding for infringement of any patent, trademark or copyright, or in the event of any adjudication that the product(s), or any part thereof, infringes any patent, trademark or copyright, or if the sub-license or use of the product(s), or any part thereof, is enjoined, Contractor, after consultation with the State, shall do one of the following at Contractor's expense:

- a. produce for the State the right under such patent, trademark or copyright to use or sub-license, as appropriate, the product or such part thereof; or
- b. replace the product(s), or part thereof, with other suitable products or parts conforming to the original license and State specifications; or
- c. suitably modify the products, or part thereof.

Except as otherwise expressly provided herein, Contractor shall not be liable for any costs or expenses incurred without its prior written authorization.

Contractor shall have no obligation to defend against or to pay any costs, damages or attorney's fees with respect to any claim based upon:

- a. the use of an altered release if Contractor had not consented to the alteration; or
- b. the combination, operation or use of the product(s) with programs or data which were not furnished by Contractor, if such infringement would have been avoided if the programs or data furnished by persons or entities other than Contractor had not been combined, operated or used with the product(s); or
- c. the use of product(s) on or in connection with equipment or software not permitted under this contract if such infringement would have been avoided by not using the product(s) on or in connection with such other equipment or software.

other than the State or the Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

- d. Waiver. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.
- e. Continuing Obligations. The State and the Contractor's obligations under this contract shall survive following termination or expiration to the extent necessary to give effect to the intent and understanding of the parties.
- f. Assignment and Change In Ownership, Address, Financial Status. Except as herein specifically provided otherwise, the rights, duties and obligations of the Contractor arising hereunder cannot be assigned, delegated, subgranted or subcontracted except with the express prior written consent of the State, which consent shall not be unreasonably withheld. In the case of assignment or delegation, Contractor and the State shall execute the standard State novation agreement prior to the assignment or delegation being effective against the State. The subgrants and subcontracts permitted by the State shall be subject to the requirements of this contract. The Contractor is responsible for all subcontracting arrangements, delivery of services, and performance of any subgrantor or subcontractor. The Contractor warrants and agrees that any subgrant or subcontract, resulting from its performance under the terms and conditions of this contract, shall include a provision that the said subgrantor or subcontractor shall abide by the terms and conditions hereof. Also, the Contractor warrants and agrees that all subgrants or subcontracts shall include a provision that the subgrantor or subcontractor shall indemnify and hold harmless the State. The subgrants or subcontractors must be certified to work on any equipment for which their services are obtained.

This provision shall not be construed to prohibit assignments of the right to payment to the extent permitted by section 4-9-318, CRS, provided that written notice of assignment adequate to identify the rights assigned is received by the controller for the agency, department, or institution executing this contract. Such assignment shall not be deemed valid until receipt by such controller – as distinguished from the State Controller – and the Contractor assumes the risk that such written notice of assignment is received by the controller for the agency, department, or institution involved.

The Contractor is required to formally notify the State prior to, or if circumstances do not allow prior notification then immediately following, any of the following:

- I. change in ownership;
 - II. change of address;
 - III. the filing of bankruptcy.
- g. Force Majeure. Neither the Contractor nor the State shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure." As used in this contract "force majeure" means acts of God; acts of the public enemy; acts of the State and any governmental entity in its sovereign or contractual capacity; fires; floods, epidemics; quarantine restrictions, strikes or other labor disputes; freight embargoes; or unusually severe weather.
 - h. Changes In Law. This contract is subject to such modifications as may be required by changes in applicable federal or State law, or their implementing rules, regulations, or procedures. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in the form of a written amendment to this Contract that has been previously executed and approved in accordance with applicable law.

- I. In the event that the State determines that the health, safety, or welfare of persons receiving services may be in jeopardy;
- II. Upon verifying that the Contractor has engaged in or is about to participate in fraudulent or other illegal acts; or
- III. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Contract.

21. Stop Work Order. Upon written approval by the State Procurement Officer or delegee, the State may, by written order to the Contractor, at any time, and without notice to any surety, require the Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period after the order is delivered to the Contractor. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, as legally extended, the State Procurement Officer or delegee shall either:

- a. Cancel the stop work order; or
- b. Terminate the work covered by such order; or
- c. Terminate the contract.

If a stop work order issued under this clause is properly canceled, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified accordingly in writing pursuant to the terms of this contract dealing with contract modifications, if:

- a. The stop work order results in increased time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
- b. The Contractor asserts claim for such an adjustment within thirty (30) days after the end of the period of work stoppage.

If the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise and such adjustment shall be in accordance with the Price Adjustment Clause of this contract.

22. Venue. The parties agree that exclusive venue for any action related to performance of this contract shall be in the City and County of Denver, Colorado.

23. Understanding of the Parties.

- a. Complete Integration. This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State Fiscal Rules.
- b. Severability. To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.
- c. Binding Agreement. Except as herein specifically provided otherwise, it is expressly understood and agreed that this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. All rights of action relating to enforcement of the terms and conditions shall be strictly reserved to the State and the named Contractor. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Contractor that any such person or entity,

- f. modify or recover payments (from payments under this contract or other contracts between the State and the vendor as a debt due to the State) to correct an error due to omission, error, fraud and/or defalcation; and/or
- g. terminate the contract.

These remedies in no way limit the remedies available to the State in the termination provisions of this contract, or remedies otherwise available at law.

20. Termination

- a. Termination for Default. The State may terminate the contract for cause. In the event this contract is terminated for cause, the State will only reimburse the Contractor for accepted work or deliverables received up to the date of termination. In the event this contract is terminated for cause, final payment to the Contractor may be withheld at the discretion of the State until completion of final audit. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Contractor, and the State may withhold any payment to the Contractor for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Contractor is determined. If it is determined that the Contractor was not in default then such termination shall be treated as a termination for convenience as described herein. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the contractor under this contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Contractor shall be obligated to return any payment advanced under the provisions of this contract.

- b. Termination for Convenience. The State shall have the right to terminate this contract at any time the State determines necessary by giving the Contractor at least twenty (20) calendar days prior written notice. If notice is so given, this contract shall terminate on the expiration of the specified time period, and the liability of the parties hereunder for further performance of the terms of this contract shall thereupon cease, but the parties shall not be released from the duty to perform their obligations up to the date of termination. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the contractor under this contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory services and supplies delivered.

In the event that the State terminates this contract under the Termination for Convenience provisions, the Contractor is entitled to submit a termination claim within ten (10) days of the effective date of termination. The termination claim shall address and the State shall consider paying the following costs:

- I. the contract price for performance of work, which is accepted by the State, up to the effective date of the termination;
- II. reasonable and necessary costs incurred in preparing to perform the terminated portion of the contract;
- III. reasonable profit on the completed but undelivered work up to the date of termination;
- IV. the costs of settling claims arising out of the termination of subcontracts or orders, not to exceed 30 days pay for each subcontractor;
- V. reasonable accounting, legal, clerical, and other costs arising out of the termination settlement.

In no event shall reimbursement under this clause exceed the contract amount reduced by amounts previously paid by the State to the Contractor.

- c. Immediate Termination. This contract is subject to immediate termination, in whole or in part, by the State without further liability in all of the following circumstances:

The standard written amendment must be executed and approved in accordance with all applicable laws and rules by all necessary parties including the State Controller or delegate.

17. Litigation. The Contractor shall within five (5) calendar days after being served with a summons, complaint, or other pleading which has been filed in any federal or state court or administrative agency notify the State that it is a party defendant in a case which involves services provided under this contract. The Contractor shall deliver copies of such document(s) to the State's Executive Director. The term "litigation" includes an assignment for the benefit of creditors, and filings in bankruptcy, reorganization and/or foreclosure.

18. Notice of Breach and Dispute Resolution: If the State or the Contractor believes in good faith that the other party has failed to timely complete a deliverable, or has otherwise committed a material breach of this Contract, then the non-breaching party shall notify the breaching party in writing of the alleged breach within ten (10) business days of: 1) the date of the alleged breach if the non-breaching party is aware of the breach at the time it occurs; or 2) the date that the non-breaching party becomes aware of the breach.

Upon receipt of written notice of an alleged breach of the Contract, the breaching party shall have ten (10) business days, or such additional time as may be agreed to in writing between the parties, within which to cure the alleged breach or to notify the non-breaching party in writing of the breaching party's belief that a material breach of this Contract has not occurred. Failure of the breaching party to cure or respond in writing within the above time period shall result in the non-breaching party being entitled to pursue any and all remedies available at law or in equity.

Except as herein specifically provided otherwise, disputes concerning the performance of this contract which cannot be resolved by the designated contract representatives shall be referred in writing to a senior departmental management staff designated by the department and a senior manager designated by the Contractor. Failing resolution at that level, disputes shall be presented in writing to the Executive Director and the Contractor's chief executive officer for resolution. This process is not intended to supersede any other process for the resolution of controversies provided by law.

The Contractor and its sureties shall be liable for any damage to the State resulting from the Contractor's breach, whether or not the Contractor's right to proceed with the work is terminated. The State reserves the right, in its sole discretion, to determine whether or not to accept substituted performance tendered by the Contractor or the Contractor's sureties and acceptance is dependent upon completion of all applicable inspection procedures.

19. Remedies: In addition to any other remedies provided for in this contract, and without limiting its remedies otherwise available at law, the State may exercise the following remedial actions if the Contractor substantially fails to satisfy or perform the duties and obligations in this contract. Substantial failure to satisfy the duties and obligations shall be defined to mean significant insufficient, incorrect or improper performance, activities, or inaction by the Contractor. Without limitation, these remedial actions include:
- a. withhold payment to Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or
 - b. require the vendor to take necessary action to ensure that the future performance conforms to contract requirements; and/or
 - c. request the removal from work on the contract of employees or agents of Contractor whom the State justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the State deems to be contrary to the public interest or not in the best interest of the State; and/or
 - d. deny payment for those services or obligations which have not been performed and which due to circumstances caused by Contractor cannot be performed, or if performed would be of no value to the State; denial of the amount of payment must be reasonably related to the value of work or performance lost to the State; and/or
 - e. suspend Contractor's performance pending necessary corrective action as specified by the State without Contractor's entitlement to adjustment in price/cost or schedule; and/or

In the event that the Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, the Contractor shall submit to the State a full disclosure statement setting forth the relevant details for the State's consideration and direction. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict shall be grounds for termination of the contract.

Further, the Contractor, and its subcontractors or subgrantees, shall maintain a written code of standards governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent of the Contractor, subcontractor, or subgrantee shall participate in the selection, or in the award or administration of a contract or subcontract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer or agent;
- b. Any member of the employee's immediate family;
- c. The employee's partner; or
- d. An organization which employees, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award. The Contractor's, subcontractor's, or subgrantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from Contractor's potential contractors, or parties to subagreements.

14. Inspection and Acceptance (Services) and Contractor Warranty. The State reserves the right to inspect services provided under this contract at all reasonable times and places during the term of the contract. "Services" as used in this clause includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform with contract requirements, the State may require the contractor to perform the services again in conformity with contract requirements, with no additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, the State may (1) require the contractor to take necessary action to ensure that the future performance conforms to contract requirements and (2) equitably reduce the payment due the contractor to reflect the reduced value of the services performed. These remedies in no way limit the remedies available to the State in the termination provisions of this contract, or remedies otherwise available at law.

Contractor warrants that all supplies furnished under this contract shall be free from defects in materials or workmanship, are installed properly and in accordance with manufacturer recommendations or other industry standards, and will function in a failure-free manner for a period of one (1) year from the date of delivery or installation. Contractor shall, at its option, repair or replace any supplies that fail to satisfy this warranty during the warranty period. Additionally, Contractor agrees to assign to the State all written manufacturer warranties relating to the supplies and to deliver such written warranties to the State.

15. Adjustments in Price. Adjustments to contract prices are allowable only so long as they are mutually agreeable by the parties and so long as they are included within a contract amendment made prior to the effective date of the price adjustments and made pursuant to the State of Colorado Fiscal Rules, signed by the parties, and approved by the State Controller or designee. The Contractor shall provide cost or pricing data for any price adjustment subject to the provisions of the Cost or Pricing Data Section of the Colorado State Procurement Rules. Any adjustment in contract price pursuant to the application of a clause in this contract shall be made in one or more of the following ways:

- a. By agreement on a fixed-price adjustment;
- b. By unit prices specified in the contract;
- c. In such other manner as the parties may mutually agree; or
- d. In the absence of agreement between the parties, by a unilateral determination by the procurement officer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee.

16. Contract Modifications. This contract is subject to such modifications as may be required by changes in Federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. If either the State or the Contractor desires to modify the terms and conditions of this Contract, then the parties shall execute a standard written amendment to this Contract initiated by the State.

but nothing herein shall be construed to require the State to refuse or delay compliance with any such law, order or demand.

11. Records Maintenance, Performance Monitoring & Audits. The Contractor shall maintain a complete file of all records, documents, communications, and other materials that pertain to the operation of the program/project or the delivery of services under this contract. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a contract payment was made. These records shall be maintained according to generally accepted accounting principles and shall be easily separable from other Contractor records.

The Contractor shall protect the confidentiality of all records and other materials containing personally identifying information that are maintained in accordance with this contract. Except as provided by law, no information in possession of the Contractor about any individual constituent shall be disclosed in a form including identifying information without the prior written consent of the person in interest, a minor's parent, guardian, or the State. The Contractor shall have written policies governing access to, duplication and dissemination of, all such information and advise its agents, if any, that they are subject to these confidentiality requirements. The Contractor shall provide its agents, if any, with a copy or written explanation of these confidentiality requirements before access to confidential data is permitted.

The Contractor authorizes the State, the federal government or their designee, to perform audits and/or inspections of its records, at any reasonable time during the term of this contract and for a period of six (6) years following the termination of this contract, to assure compliance with the state or federal government's terms and/or to evaluate the Contractor's performance. Any amounts the State paid improperly shall be immediately returned to the State or may be recovered in accordance with other remedies.

All such records, documents, communications, and other materials shall be the property of the State unless otherwise specified herein and shall be maintained by the Contractor in a central location as custodian for the State on behalf of the State, for a period of six (6) years from the date of final payment or submission of the final federal expenditure report under this contract, unless the State requests that the records be retained for a longer period, or until an audit has been completed with the following qualification. If an audit by or on behalf of the federal and/or state government has begun but is not completed at the end of the six (6) year period, or if audit findings have not been resolved after a six (6) year period, the materials shall be retained until the resolution of the audit findings.

The Contractor shall permit the State, any other governmental agency authorized by law, or an authorized designee thereof, in its sole discretion, to monitor all activities conducted by the Contractor pursuant to the terms of this contract. Monitoring may consist of internal evaluation procedures, reexamination of program data, special analyses, on-site verification, formal audit examinations, or any other procedures as deemed reasonable and relevant. All such monitoring shall be performed in a manner that will not unduly interfere with contract work.

12. Taxes. The State, as purchaser, is exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code [No. 84-730123K] and from all state and local government use taxes [C.R.S. 39-26-114(a) and 203, as amended]. The Contractor is hereby notified that when materials are purchased for the benefit of the State, such exemptions apply except that in certain political subdivisions the vendor may be required to pay sales or use taxes even though the ultimate product or service is provided to the State. These sales or use taxes will not be reimbursed by the State.
13. Conflict of Interest. During the term of this contract, the Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the Contractor fully performing his/her obligations under this contract.

Additionally, the Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interests of the State. Thus, the Contractor agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with the Contractor's fully performing his/her obligations to the State under the terms of this contract, without the prior written approval of the State.

- g. All policies evidencing the insurance coverages required hereunder shall be issued by insurance companies satisfactory to the State.
 - h. The Contractor shall provide certificates showing insurance coverage required by this contract to the State by the effective date of the contract. No later than fifteen (15) calendar days prior to the expiration date of any such coverage, the Contractor shall deliver to the State certificates of insurance evidencing renewals thereof. At any time during the term of this contract, the State may request in writing, and the Contractor shall thereupon within ten (10) calendar days supply to the State, evidence satisfactory to the State of compliance with the provisions of this section.
 - i. The Contractor shall provide such other insurance as may be required by law, or in a specific solicitation.
9. Rights in Data, Documents and Computer Software or Other Intellectual Property. All intellectual property including without limitation, databases, documents, research, as well as all, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by the Contractor in the performance of its obligations under this contract shall be the exclusive property of the State. Unless otherwise stated, all such material shall be delivered to the State by the Contractor upon completion, termination, or cancellation of this contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the Contractor's obligations under this contract without the prior written consent of the State. All documentation, accompanying the intellectual property or otherwise, shall comply with the State requirements which include but is not limited to all documentation being in a paper, human readable format which is useable by one who is reasonably proficient in the given subject area.
10. Confidential or Proprietary Information. Subject to the Public (Open) Records Act, section 24-72-101, *et seq.*, C.R.S., as amended, if the Contractor obtains access to any records, files, or other information of the State in connection with, or during the performance of, this Contract, then the Contractor shall keep all such records, files, or other information confidential and shall comply with all laws and regulations concerning the confidentiality of all such records, files, or information to the same extent as such laws and regulations apply to the State. Any breach of confidentiality by the Contractor, or third party agents of the Contractor, shall constitute good cause for the State to cancel this Contract, without liability to the State. Any State waiver of an alleged breach of confidentiality by the Contractor, or third party agents of the Contractor, does not constitute a waiver of any subsequent breach by the Contractor, or third party agents of the Contractor. Contractor shall protect the confidentiality of all information used, held, created or received in connection with this Contract and shall insure that any subcontractors or agents of Contractor protect the confidentiality of all information under this Contract. Contractor shall use and disclose confidential information only for purposes of this Contract and for the operation and administration of the Contractor. Contractor shall implement appropriate safeguards as are necessary to prevent the use of disclosure of confidential information and shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards for the electronic transmission of confidential information which are appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities. Contractor shall promptly notify the State if Contractor breaches the confidentiality of any information covered by this Contract.

The Contractor must identify to the State the information that it considers confidential or proprietary. This is a continuing obligation. Confidential or proprietary information for the purpose of this paragraph is information relating to Contractor's research, development, trade secrets, business affairs, internal operations and management procedures and those of its customers, clients or affiliates, but does not include information lawfully obtained by third parties, information which is in the public domain, or information which is or could have been acquired/developed independently by the State or a third party. Notwithstanding the foregoing, the State shall not be in violation of its obligations under this section should it disclose confidential information if such disclosure is, in the sole opinion of the State's legal counsel, required by applicable law and/or legal process (including, but not limited to, disclosures required pursuant to the Colorado (Open) Public Records Act, sections 24-72-201, *et seq.*, C.R.S., as now or hereafter amended). The State shall endeavor to provide notice to the Contractor, as promptly as practicable under the circumstances, of any demand, request, subpoena, court order or other action requiring such disclosure, in order to afford Contractor the opportunity to take such lawful action as it deems appropriate to oppose, prevent or limit the disclosure, solely at its own instance and expense;

U.S. Mail Depository with sufficient postage attached thereto. Notice of change of address or change or representative shall be treated as any other notice.

6. Contractor Representations - Qualifications/Licenses/Approvals/Insurance. The Contractor certifies that, at the time of entering into this contract, it and its agents have currently in effect all necessary licenses, certifications, approvals, insurance, etc. required to properly provide the services and/or supplies covered by this contract in the state of Colorado. Proof of such licenses, certifications, approvals, insurance, etc. shall be provided upon the State's request. Any revocation, withdrawal or non-renewal of necessary license, certification, approval, insurance, etc. required for the Contractor to properly perform this contract, shall be grounds for termination of this contract by the State.

Contractor certifies that it is qualified to perform such services or provide such deliverables as delineated in this contract.

7. Legal Authority. The Contractor warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and bind the Contractor to its terms. The person(s) executing this contract on behalf of the Contractor warrant(s) that such person(s) have full authorization to execute this contract.

8. Insurance – Contractor. During the term of this contract, and any renewals or extensions thereof, Contractor, and its Subcontractors shall, and hereby agrees to, obtain, maintain, and keep in force at all times during the term of this contract an insurance policy or policies, issued by a company authorized to do business in Colorado, in the kinds and minimum amounts, and under the conditions specified below.

- a. Worker's Compensation Insurance as required by state statute, and Employer's Liability Insurance covering all of Contractor's employees acting within the course and scope of their employment.
- b. Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:
 - I. \$1,000,000 each occurrence;
 - II. \$1,000,000 general aggregate;
 - III. \$1,000,000 products and completed operations aggregate; and
 - IV. \$50,000 any one fire.

If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the Contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the State a certificate or other document satisfactory to the State showing compliance with this provision.

- c. Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit as follows: \$1,000,000 each accident combined single limit.
- d. The State of Colorado shall be named as an additional insured on the Commercial General Liability policy. Coverage required of the contract will be primary over any insurance or self-insurance program carried by Contractor or the State of Colorado.
- e. The insurance shall include provisions preventing cancellation or non-renewal without at least thirty (30) calendar days prior written notice to the State by certified mail.
- f. The Contractor will require all insurance policies in any way related to the contract and secured and maintained by the Contractor to include clauses stating that each carrier will waive all rights of recovery, under subrogation or otherwise, against the State of Colorado, its agencies, institutions, organizations, officers, agents, employees and volunteers.

GENERAL PROVISIONS

The following clauses apply to this contract. In some instances, these general clauses have been expanded upon in other sections/exhibits of/to this contract. To the extent that other provisions of the contract provide more specificity than these general clauses, the more specific provision shall control.

1. Governmental Immunity. Notwithstanding any other provision to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101 et.seq., CRS, as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of Section 24-10-101 et.seq., CRS and the risk management statutes, Section 24-30-1501, et.seq., CRS as now or hereafter amended.
2. Available Funds-Contingency
 - a. Available Funds. The State is prohibited by law from making commitments beyond the term of the State's current fiscal year; therefore, Contractor's compensation beyond the State's current Fiscal Year is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions. Payments pursuant to this Contract shall be made only from available funds encumbered for this Contract and the State's liability for such payments shall be limited to the available amount remaining of such encumbered funds. In the event that state funds become unavailable for this Contract, as determined by the State, the State may immediately terminate this Contract or amend it accordingly.
 - b. Federal Funds Contingency. Payment pursuant to this contract, if in federal funds, whether in whole or in part, is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. In the event that said funds, or any part thereof, become unavailable, as determined by the State, the State may immediately terminate this contract or amend it accordingly without liability including liability for termination costs.
3. Billing Procedures. The State shall establish billing procedures and requirements for payment due the Contractor in providing performance pursuant to this contract. The Contractor shall comply with the established billing procedures and requirements for submission of billing statements. The State shall comply with CRS 24-30-202(24) when paying vendors upon receipt of a correct notice of the amount due for goods or services provided hereunder.
4. Exhibits - Interpretation. Unless otherwise stated, all referenced exhibits are incorporated herein and made a part of this contract. Unless otherwise stated, the terms of this contract shall control over any conflicting terms in any of its exhibits. In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: 1) the Special Provisions of this Contract; 2) the Additional Provisions Exhibit A and its attachments if included; 3) the Contract (other than the Special Provisions); 4) the RFP if applicable and attached; 5) the Scope/Statement of Work Exhibit B and its attachments if included; 6) the Contractor's proposal if applicable and attached; 7) other exhibits/attachments in their order of appearance.

The conditions, provisions, and terms of any RFP attached hereto, if applicable, establish the minimum standards of performance that the Contractor must meet under this Contract. If the Contractor's Proposal, if attached hereto, or any attachments or exhibits thereto, or the Scope/Statement of Work Exhibit B, establish or create standards of performance greater than those set forth in the RFP, then the Contractor shall also meet those standards of performance under this Contract.
5. Notice and Representatives. For the purposes of this contract, the representative for each party is as designated herein. Any notice required or permitted may be delivered in person or sent by registered or certified mail, return receipt requested, to the party at the address provided, and if sent by mail it is effective when posted in a

EXHIBITS:

The following exhibits are hereby incorporated:

- Exhibit A - Additional Provisions (and Attachment A-1)
- Exhibit B - Statement of Work (and Attachment B-1)
- Exhibit C - Timeline for Equipment Procurement
- Exhibit D - Budget

COORDINATION:

The State warrants that required approval, clearance and coordination has been accomplished from and with appropriate agencies.

APPROVAL:

In no event shall this contract be deemed valid until it shall have been approved by the State Controller or his/her designee.

PROCUREMENT:

This contractor has been selected in accordance with the requirements of the Colorado Procurement Code.

PRICE PROVISIONS:

Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services and/or deliverables. The liability of the State at any time for such payments shall be limited to the encumbered amount remaining of such funds.

Authority exists in the laws and funds have been budgeted, appropriated and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment.

Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

The purpose of this contract is to purchase approximately 200 evidential breath alcohol testing instruments with peripherals to be used by law enforcement statewide for DUI/DWAI testing purposes, associated software and training, and to purchase maintenance supplies to support said equipment through the expected equipment life span of ten years.

DEPARTMENT OF PUBLIC HEALTH
AND ENVIRONMENT

ROUTING NO. 12 FAA 43891

CONTRACT

STATE:

State of Colorado for the use & benefit of the
Department of Public Health and Environment
LSD- Administration
8100 Lowry Boulevard
Denver, CO 80230

CONTRACTOR:

CMI, Inc.
316 East Ninth Street
Owensboro, KY 42303

CONTRACT MADE DATE:

05/10/2012

CONTRACTOR ENTITY TYPE:

Corporation

PO/SC ENCUMBRANCE NUMBER:

PO FAA 43891

BILLING STATEMENTS RECEIVED:

Quarterly

TERM:

This contract shall be effective upon approval
by the State Controller, or designee, or on
05/15/2012, whichever is later. The contract
shall end on 05/14/2022.

STATUTORY AUTHORITY:

Not Applicable

CONTRACT PRICE NOT TO EXCEED:

\$1,975,000

FEDERAL FUNDING DOLLARS \$450,000 (est)

STATE FUNDING DOLLARS \$1,525,000 (est)

PROCUREMENT METHOD:

Request for Proposal

MAXIMUM AMOUNT AVAILABLE PER FISCAL YEAR:

FY 12: \$1,210,000	FY 18: \$ 34,000
FY 13: \$ 465,000	FY 19: \$ 37,000
FY 14: \$ 22,000	FY 20: \$ 40,000
FY 15: \$ 25,000	FY 21: \$ 43,000
FY 16: \$ 28,000	FY 22: \$ 40,000
FY 17: \$ 31,000	

BID/RFP/LIST PRICE AGREEMENT NUMBER:

TM-LSD121208

LAW SPECIFIED VENDOR STATUTE

Not Applicable

PRICE STRUCTURE:

Price per Unit (Instrument), training, software, and
supplies (based on list pricing)

STATE REPRESENTATIVE:

Jeffrey Groff
LSD
8100 Lowry Boulevard
Denver, CO 80230

CONTRACTOR REPRESENTATIVE:

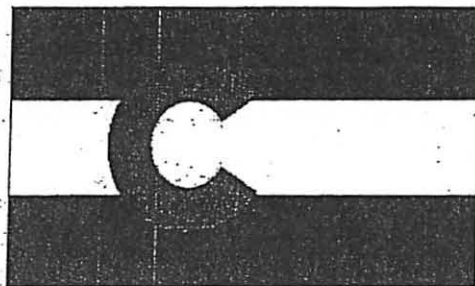
Toby Hall
CMI, Inc.
316 East Ninth Street
Owensboro, KY 4230

SCOPE OF WORK:

CMI, Inc.

RFP No. TM-LD121208

January 18, 2012 2:00PM MST





316 E. 9th St.
Owensboro, KY 42303
1-866-835-0690
Fax: 270-685-6678
www.alcoholtest.com

January 17, 2012

Timothy B. Massangale, CPPB, Senior Purchasing Agent
Colorado Department of Public Health and Environment
ASD-Purch-C1-Room 154-A
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Dear Mr. Massangale:

CMI would like to thank you and the State of Colorado for the opportunity to continue to be the provider of instruments used in your alcohol breath testing program. CMI has partnered with the State of Colorado for more than 20 years. During this relationship, CMI has always strongly supported the state in all aspects of the program. CMI is excited to have the opportunity to continue this relationship and support for your program. While there are other companies manufacturing alcohol breath testing equipment, we do not believe there is another company that will stand behind their products and the state's program as solidly as CMI has with the State of Colorado.

In preparing this response CMI exhausted all efforts to insure that the information provided is thorough and inclusive of all details necessary for the State of Colorado to make a sound decision. Our experience with the State of Colorado will be extremely helpful when moving to the next generation of technology with your breath alcohol testing program. As we have in the past, CMI will be a solid partner in continuing your program for years to come.

The product offered by CMI, the Intoxilyzer 9000, is the newest analytical instrument in the market today. The quality, reliability, robustness, repeatability and accuracy of CMI Infrared instruments has been proven for many years with many state programs. CMI continues to support numerous state programs both in the field and in the lab and is committed to be a partner before, during, and long after the delivery of our product. I think we have proven this in the State of Colorado with our long standing support of the instruments, your program, and other concerns.

We look forward to continuing this support for many years to come as the Intoxilyzer 9000 is introduced to the law enforcement agencies in Colorado.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Setles", is written over a horizontal line.

Tom Setles
Sales and Marketing Manager



1	Minimum Qualifications
2	Technology
3	Functionality/Expandability/ Ease of Use
4	Cost/Cost to Maintain
5	Ease of Repair/Maintenance/ Calibration
6	Service/Warranty/Legal
7	Manufacturer Training/ Technical Support
8	Attachments
9	Request for Proposal Vendor Information Form
10	

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- a. Vendor is capable of shipping hardware up to 120 units no later than 6/30/2012 assuming a contract execution date sometime in April of 2012.

CMI is more than capable of shipping the required number of instruments, 120, by 6/30/2012 assuming that the contract is signed in April. CMI, Inc has provided instruments in excess of 100 per month of a similar model while also producing and selling other breath alcohol instruments at the same time. CMI has a well trained, seasoned work force that is fluent in the manufacturing of these high quality instruments. The State of Colorado's past experience with CMI should show proof of our commitment to the customer and quality.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- b. Vendor agrees to the unaltered Colorado Terms and Conditions and "Special Provisions" (Appendix A).

CMI agree to the Colorado Terms and Conditions and Special Provisions which are a part of this RFP, TM-LSD121208. Further CMI does not foresee any Intellectual Property that will need to be prepared under the contract and will apply already existing but configurable features and options, both software and hardware in the execution of the contract. CMI recognizes that this particular combination of features and options cannot be used anywhere else without permission from the State of Colorado .

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- c. The EBAT Instrument submitted for evaluation meets or exceeds NHTSA Highway Safety Program's Model Specification for Device to Measure Breath Alcohol (58FR 48705). (Appendix B)

The Intoxilyzer 9000 submitted for evaluation, like all CMI, Inc. infrared-based evidential breath alcohol testing instruments, is designed to meet and exceed NHTSA's Model Specifications for Devices to Measure Breath Alcohol. Attached in section 8.3 are results from testing the Intoxilyzer 9000 model that show that the instrument meets and exceeds the Model Specifications.

CML, Inc. Response
RFP TM-LSD121208
Statement of Work

1. Minimum Qualifications:

- d. The EBAT Instrument submitted for evaluation has the ability to measure and correlate ethanol concentrations at a minimum of two different points.

The Intoxilyzer 9000 submitted for evaluation is equipped with the ability to measure and quantify ethanol concentrations at three distinct infrared wavelengths (i.e. frequencies) for each sample. The results of these three individual measurements are then correlated to provide a final result of the measurement sample. A fourth distinct infrared wavelength is used for the determination of interfering substances.

CML, Inc. Response
RFP TM-LSD121208
Statement of Work

1. Minimum Qualifications:

- e. The EBAT Instrument submitted for evaluation has the ability to detect "Mouth Alcohol"

The Intoxilyzer 9000 submitted for evaluation is equipped with the ability to detect the presence of mouth alcohol in the upper respiratory tract. There are three industry-accepted methods by which mouth alcohol can be detected. The first is the peak method whereby the instrument detects mouth alcohol by determining that a drop from the peak alcohol concentration of a sample has exceeded a defined maximum allowable drop. The second is the two-measurement cycle whereby the instrument uses the results of two separate sample measurements (breath exhalations) separated by a short delay to determine if a maximum correlation between the two samples has been exceeded, indicating mouth alcohol. The third method is a delay before measurement, typically involving an observation period, to ensure that any alcohol has dissipated from the upper respiratory tract. The Intoxilyzer 9000 has the ability to employ all three of these methods.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- f. The EBAT Instrument submitted for evaluation is compatible with the Guth 2100 wet bath simulator using an RS-232 cable interface.

Yes, the Intoxilyzer 9000 is compatible with the Guth 2100 simulator. CMI will provide a Guth 2100 simulator with the evaluation instrument. Further the Intoxilyzer 9000 can be configured to communicate with other brands and models of simulators, e.g. the Guth 590 simulator and simulators sold by Repco.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- g. The EBAT Instrument manufacturer will provide all necessary ancillary and peripheral equipment to perform the evaluation to include any applicable operational software and/or databases required to operate the instrument.

CMI will provide the following items for use in evaluating the EBAT instrument:

- Guth 2100 Simulator
- 3 boxes of mouth pieces (100 per box)
- COBRA Version 5 data base management software
- Computer to run COBRA
- Keyboard
- Carry case
- Printer
- Interface Cables for simulator, printer, and COBRA

CMI stands at the ready and will be responsive to additional request made by the State of Colorado.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

h. The EBAT Instrument submitted for evaluation has operational software that is compatible with:

- Web Server; Windows 2008 R2 64-bit, IIS 7, .NET Framework 4
- Database Server; SQL 2008 R2 64-bit
- Certified to work on virtualized infrastructure

The Intoxilyzer 9000 submitted for evaluation includes self-contained software that operates the instrument. No external software is required to operate the instrument. However, if external data management or other local or remote communications capabilities are desired, CMI's data management and communications software package, COBRA V5, is provided to facilitate this requirement. COBRA V5 has been installed, deployed and tested to be compatible with the listed software, database, and infrastructure requirements.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- i. The EBAT Instrument manufacturer will provide onsite technical training by appropriate factory personnel not to exceed 2 days in length prior to the start of the evaluation period.

CMI will provide entirely at its own expense the required technical training for the Intoxilyzer 9000 and the data management software COBRA as requested.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- j. Please list the EBAT Instrument power requirements.

The Intoxilyzer 9000 submitted for evaluation has the following maximum power requirements:

AC Input: 90-132 VAC or 180-264 VAC
47-63 Hz
2A for 100-120 VAC
1A for 200-240 VAC

DC Input: 10-18 VDC
8A for 12 VDC

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- k. Does the EBAT instrument meet or exceed MET/UL compliance?
If not, please explain.

Yes, the Intoxilyzer 9000 meets MET/UL requirements.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- I. The EBAT Instrument manufacturer will provide current and fixed (Until 12.31.2012) pricing lists for instruments, parts and labor.

CMI has provided pricing for the instruments, parts, and labor in our response to Statement of Work Section 4: Cost / Cost to Maintain. That pricing is current and will be fixed until 12/31/2012 as requested.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

1. Minimum Qualifications:

- m. The EBAT Instrument manufacturer shall provide the Department the following documentation to establish experience and qualifications:
 - i. EBAT instrument manufacturer's status as a registered / approved entity for at least 5 years.

CMI, Inc., is located in Owensboro, Kentucky and manufactures a wide range of breath alcohol testing instruments for industry and law enforcement purposes. CMI was established in 1970 in Vail, Colorado to manufacture traffic radar; in 1975, CMI purchased Omicron Systems which had developed infrared breath analysis instruments. CMI was then purchased by Federal Signal Corporation in 1982 and took a gigantic step forward in the alcohol testing marketplace. MPD, Inc., the former Microwave Products Department of General Electric, purchased CMI in 1988 and moved its entire operation to Owensboro the next year.

In 1990, MPD purchased Lion Laboratories, plc of Barry, Wales, another worldwide leader in marketing breath alcohol testing instruments. While CMI and Lion share engineering, marketing, and manufacturing resources and approach the world as a single entity, products in North and South America are marketed under the CMI banner while the Lion brand name appears on products in most other parts of the world.

CMI prides itself on being a high quality manufacturer of breath testing equipment. Our pricing philosophy revolves around being fair to the customer, employees, and shareholders of the company. CMI has been in the breath alcohol business for over 30 years, and will continue to support the market with innovative instruments. The management team at CMI is made up of experienced individuals from the alcohol testing industry, engineers that have developed breath testing instruments, and retired police officers that have first hand experience with the programs and instruments.

CMI has many products registered with NHTSA and contained in the Conforming Products List for Evidential Breath Test Devices. CMI is registered with the Federal Government with a tax ID number of 61-1205273.

- ii. Provide a list of other state and federal agencies (if any) currently using EBAT instruments produced by the manufacturer.

Please find this list in the confidential envelope.

- iii. Provide a list of other national, principality, commonwealth governmental agencies (if any) currently using EBAT instruments produced by the manufacturer.

Please find this list in the confidential envelope.

- iv. A minimum of 3 references who are current customers, not associated with the Department in any manner, nor reside in the State of Colorado.

- 1. Montana

- Ben Vetter
 - Montana Department of Justice
 - 2679 Palmer Street
 - Missoula, MT 59808
 - 406-329-5025
 - bvetter@mt.gov

- 2. Texas

- Mack Cowan
 - Texas Department of Public Safety
 - PO Box 4087
 - Austin, TX 78773
 - (512) 424-5202
 - mack.cowan@txdps.state.tx.us

- 3. Georgia

- Chris Tilson
 - Georgia Bureau of Investigation
 - 3121 Panthersville Road
 - Decatur, GA 30037-0808
 - (404) 328-4280
 - Chris.tilson@gbi.state.ga.us

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

2. Technology:

a. What is your approach to software implementation?

CMI's approach to software implementation has the customer as the focus. An initial consultation between CMI and the customer is held to obtain the software requirements of the customer and for CMI to detail the capabilities, configuration and customization options, and operation of the software. From this initial consultation and any subsequent follow-up meetings, a software specification is developed and agreed to. The software is then configured and tested to these specifications and delivered to the customer for approval testing. Once approved, the software is formally released for integration into production instruments and to the customer via electronic means for installation into fielded instruments. After production release of software, any changes requested from the customer are formatted into a software change request specification. After agreed upon, the software is updated and tested according to the specification and then follows the same process of approval testing and release.

i. What type of software support is available?

CMI provides telephone, e-mail, and web-based conferencing/training support for operation and technical questions or issues with the instrument's operational software and data management software. CMI offers unlimited technical support, including operational or technical questions, software bug-fixes and updates, with an annual software support contract. Additionally, CMI provides training and support at the annual Intoxilyzer User's Group Conference, hosted on a rotating basis by Breath Alcohol Testing Programs nation-wide.

ii. Please explain software implementation methodology.

CMI's approach to software implementation has the customer as the focus. An initial consultation between CMI and the customer is held to obtain the software requirements of the customer and for CMI to detail the capabilities, configuration and customization options, and operation of the software. From this initial consultation and any subsequent follow-up meetings, a software specification is developed and agreed to. The

software is then configured and tested to these specifications and delivered to the customer for approval testing. Once approved, the software is formally released for integration into production instruments and to the customer via electronic means for installation into fielded instruments. After production release of software, any changes requested from the customer are formatted into a software change request specification. After agreed upon, the software is updated and tested according to the specification and then follows the same process of approval testing and release.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

2. Technology:

b. What is your approach to training and support?

i. What type of training and support is available?

Training and Support have always been one of the foundational building blocks of CMI's customer approach to the breath testing industry. As such, CMI strives to provide training that is personal, meaningful, and fundamental to the end user's needs. Specific examples can be found in section ii below.

ii. Please explain methodology to training EBAT staff to be a certified repair facility.

We offer the Factory Certification Courses on Law Enforcement Instrumentation that is now a two part agenda that includes the Maintenance Course and then specialized bench time at the factory with one of our many service technicians. This training is geared toward entities that have qualified people on staff that can work on instruments with full understanding that typically requires a degree in electronics.

On-Site training is also available with the same basic format as above if called for. Our technicians have traveled around the world to provide general and specialized training to a myriad of end users.

Other advanced training is available at the Intoxilyzer User's Group Conference with presentations not only from CMI staff but from other world class presenters as well.

Our support staff of eight people regularly field calls from around the globe and within the United States from 7AM until 5PM Central Standard Time, Monday through Friday. They are also available by special arrangement after hours and on weekends.

CMI, Inc. Response
RFP TM-LSD121208
Statement of Work

2. Technology:

- c. Does the EBAT instrument have the ability to perform the current Colorado test sequence – please see Attachment C - with the capability to modify and/or change. Does the EBAT instrument have the ability to detect interfering substances? If not, please explain.

(part 1) The Intoxilyzer 9000 submitted for evaluation has the ability to perform the Colorado test sequence as described in the RFP Attachment C. The test sequence performed can be modified or changed by selecting from any number of predefined (predefined by CDHPE during software specification process) test sequences, or the user can build a customized test sequence from the options menu in the instrument. The instrument assists in this process and allows only valid sequence selections to be entered.

(part 2) The Intoxilyzer 9000 submitted for evaluation has the ability to detect the presence of interfering substances found in human breath that otherwise might cause a false elevation in the ethanol concentration measured. The Intoxilyzer 9000 submitted for evaluation uses the correlated results of four distinct infrared wavelengths for the detection of interfering substances. The instrument will either produce a valid ethanol result if the substance does not interfere with the measurement or will give an error indicating that the measurement is not valid and that an interfering substance has been detected. The instrument can also be configured to detect the presence of interferents in the absence of ethanol so that the subject can receive proper medical attention.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

2. Technology:

- d. Does the EBAT instrument have the ability to detect changes in ambient conditions?
If not, please explain.

The Intoxilyzer 9000 submitted for evaluation has the ability to detect changes in ambient conditions. At the start of the testing sequence a zero reference is established. If during the course of the testing sequence the instrument detects a change in ambient conditions an exception indicating such will be displayed to the operator.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

2. Technology:

- e. Does the EBAT instrument have the ability to stop the test sequence by the operator?
If not, please explain.

The Intoxilyzer 9000 submitted for evaluation has the ability to stop the test by the operator. At any time during a test sequence (Breath, Diagnostic, Calibration Check, etc.), the operator can terminate the test sequence by pressing "ABORT". The test sequence will be terminated and a final air blank will be performed. The subsequent test printout and test record indicates that an abort was issued by the operator. The instrument can be configured, however, to not allow an abort during a test sequence should the state request such.

**CMI, Inc. Response
RFP TM-LSD121208
Statement of Work**

2. Technology:

- f. Does the EBAT instrument have the ability to correlate two subject samples prior to reporting a result? If not, please explain.

The Intoxilyzer 9000 submitted for evaluation has the ability to correlate two (or more) subject samples prior to reporting a result. The instrument submitted will have the correlation limits configured as is currently used by the State of Colorado. The limits of this correlation can be further defined and/or modified during the software specification process.

CMI, Inc. Response
RFP TM-LSD121208
Statement of Work

2. Technology:

- g. Does the EBAT instrument have the ability to correlate calibration checks?
If not, please explain.

The Intoxilyzer 9000 submitted for evaluation has the ability to correlate calibration checks performed during the subject test sequence according to the Colorado test sequence defined in RFP Attachment C. The instrument submitted will have the correlation limits configured as is currently used by the State of Colorado. The limits of this correlation can be further defined and/or modified during the software specification process.

CMI, Inc. Response
RFP TM-LSD121208
Statement of Work

2. Technology:

- h. Does the EBAT instrument have the ability to discontinue the test sequence when other abnormal or conditions or improper operations are encountered. If not, please explain.

The Intoxilyzer 9000 submitted for evaluation has the ability to detect numerous other operational errors and abnormal conditions whether from internal or external influence sources. In each case the instrument will detect and report an exception indicating the type and nature of the condition that has occurred.

CMI, Inc. Response
RFP TM-LSD121208
Statement of Work

2. Technology:

- i. Please list the instrument's data management and encryption security capabilities as well as any I/ IP protocols necessary to remotely communicate with the EBAT instrument.

The Intoxilyzer 9000 and COBRA V5 have the capability of employing AES 128- or 256-bit encryption of all communications and test records sent via communications lines (such as modem or Ethernet). COBRA V5 is capable of remote communications with the Intoxilyzer 9000 via analog modem or Ethernet. COBRA V5 and the Intoxilyzer 9000 utilize the TCP/IP network protocol for all Ethernet communications.

CMI, Inc. Response
RFP TM-LSD121208
Statement of Work

2. Technology:

- j. Please describe the instrument's remote troubleshooting and diagnostic capabilities

The Intoxilyzer 9000 has the capability for remote troubleshooting and diagnostics via analog modem or Ethernet via COBRA V5. The remote user can perform remote functions such as instrument self-diagnostics, calibration checks, monitoring of system temperatures, IR channel outputs, pressures, and outputs of various other sensors, ability to enable/disable the instrument, modify instrument configuration settings (test sequence, date/time, location, print copies, and others).

CMI, Inc. Response
RFP TM-LSD121208
Statement of Work

2. Technology:

- k. Please describe the EBAT Instrument's quality assurance capabilities/disabling and/or notification capabilities.

The Intoxilyzer 9000 submitted for evaluation has the ability to notify the operator and/or technician of the presence of conditions that exist that would prevent a test from being performed. After the instrument warms up and transitions to the Ready mode, a Diagnostic check is performed. This Diagnostic check verifies that the instrument is ready and fully operational to perform a test. Numerous system checks are performed to ensure that, for example: system temperatures are within range, system voltages and currents are within range, that various sensors can be read and are within range, that the system memory is OK, that the real time clock is OK, and that the sampling system reports all readings are within this limit. A diagnostic failure of any of these items will produce a warning message/tone and place the instrument in Standby mode and a test sequence cannot be performed until the issue is remedied. The operator/technician can proceed to the Monitor screen, run a diagnostic check, gather further information about the issue, and attempt to resolve the issue(s) so that the instrument can be restored to operational status. Additionally, several remote diagnostics functions can be performed via COBRA V5 such as remote system monitoring, diagnostics check, and calibration checks.

A stand alone Diagnostic test can be performed and/or the Diagnostic test sequence element can be added to a breath test sequence. The test will report PASS or FAIL after testing the instrument systems mentioned above. A test failure will indicate which system element(s) has failed the diagnostic.

The instrument can be configured to disable due to a failure of periodic maintenance to be performed, such as a calibration check or solution change within a 30 day or user specified time frame. Additionally the instrument can display warning or exception messages to the operator or technician when a calibration standard is near or past expiration, a dry gas cylinder has low or no pressure, a digital simulator's temperature is outside of tolerance, and others. These conditions can also be configured to be reported via COBRA V5.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

- a. Compatibility with alternative manufacturer wet bath simulators makes and models.

The Intoxilyzer 9000 is compatible with most simulators available in the market today. It is capable of communicating with digital simulators from Guth and Repco manufacturers. Instrument software can be configured to match other communications compatible simulators as requested.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

b. Touch screen capability

The Intoxilyzer 9000 has a 7 inch 800 x 480 resolution LCD color graphics touch screen display. The Intoxilyzer 9000 touch screen is pressure sensitive with the capability of sensing and responding to a gloved hand. Other touch screens do not have this capability.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

c. Remote Software upgrade capability

In conjunction with the COBRA Remote Function of the data management software, COBRA V5, the Intoxilyzer 9000 is able to upgrade instrument software remotely utilizing either Ethernet or phone lines. This method of update is secure and verified at many stages of the process. An operator need not be present to perform a remote update of the instrument. Remote updates can be set up to run automatically on a schedule.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

d. Exception message / Error message capabilities

Yes, the Intoxilyzer 9000 can be custom configured to report and display exception and error messages based on simple first order criteria specified by the customer or by utilizing compound comparisons for more specific indications. A complete set of error messages can be found in the Operational Manual which is in the confidential envelope.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

e. Compatibility and conversion to Dry Gas standards.

All of the Intoxilyzer 9000 instruments are gas ready. An integrated gas delivery system is available, and can quickly be added to any instrument, utilizing standard 67 liter non-refillable ethanol gas standards. The gas delivery system can be configured to utilize 105 and 108 liter cylinders as well. The instrument utilizes industry standard gas concentrations and not those specifically blended and prepared for fuel cells only.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

f. USB connectivity / number / expandability

The Intoxilyzer 9000 comes standard with 4 USB 2.0 Host Ports and 1 USB 2.0 Device Port. The host ports can be expanded if required utilizing a USB hub. Any number of devices can be configured to work with the Intoxilyzer 9000 through these host USB ports. The Intoxilyzer 9000 can even access flash thumb drives for secure and robust configuration updates or file transfers. The device port can be used to locally connect the instrument to a computer for fast local communications.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

g. Compatibility with external printers

The Intoxilyzer 9000 is compatible with USB PCL compatible laser jet printer.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

h. Compatibility with magnetic card swipe / 2D technology

The Intoxilyzer 9000 has an optional 1, 2, or 3 track built-in magnetic card reader may be used to scan driver's license or ID cards. A 2D bar code reader may be connected via a USB port. Other readers that might be used in the future, such as smart cards, have been considered in the design and would require minimum software configuration.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease of use for each of the following criteria:

i. Compatibility with signature pad technology

The LCD display of the Intoxilyzer 9000 can be configured as a signature pad. Also, an external USB signature pad may be utilized if wear on the display is a concern. Software configuration for signature pad via USB is well within the capabilities of the Intoxilyzer 9000.

3. Functionality / Expandability / Ease of Use:

Please describe in full the EBAT instrument functionality, expandability and ease-of use for each of the following criteria:

j. Ability to manage operator certification dates / status

The Intoxilyzer 9000 and COBRA V5 can be configured to manage operator certification dates and status. An optional module of COBRA V5, Permit Manager, can manage a database of operator's certification dates, status, and any other pertinent data required (i.e. Operator name, agency information, permit number, and critical data required by the state). COBRA V5/Permit Manager can be configured to push this data out to remotely-connected instruments in the field. This allows the instrument to control access to only those operators that should have access. COBRA V5/Permit Manager can also be configured to print Operator cards for use with the instruments for the purpose of access control and as a data entry aid.

4. Cost / Cost to Maintain

Please provide fixed pricing on the following:

a. Training Material

All training materials are furnished with the formal classes listed below.

CMI training is broken down into various segments or components depending upon the Users needs and experience.

The Factory Certification Course, offered twice per year, is now broken into two parts:

Factory Course - \$395.00 – for a Two and a half day course

Bench Time - \$195.00 for ½ day course when combined with Factory Course or \$79.00 per hour for straight bench time without attending the Factory Certification Course.

Other advanced training that is available on a yearly basis consists of the Intoxilyzer User Group annual conference where courses and workshops are offered. The 28th Annual Conference will be this fall in New Hampshire. The price for this is \$300.00 per person for 5 days of various training.

On-Site Training is also offered, it is usually a three day course with a limited number of attendee's (10 or less) for a price of \$899.00 per day plus travel expenses. This can be customized to the customer's needs upon request.

4. Cost / Cost to Maintain

Please provide fixed pricing on the following:

b. Service/ Operator Manuals

The I-9000 Operator's Manual can be shipped with each instrument (upon request). Additional manuals may be purchased by those owning instruments for \$50.00 each.

4. **Cost / Cost to Maintain**

Please provide fixed pricing on the following:

c. **Software**

The initial software configuration and two configuration revisions are included with the unit price of the instrument. Subsequent changes to the software are invoiced at \$100.00 per development hour with a minimum charge of \$500.00 per event.

4. **Cost / Cost to Maintain**

Please provide fixed pricing on the following:

d. Instruments

The Intoxilyzer 9000 unit price, equipped identical to the evaluation instrument, is listed in the attached cost envelope.

4. Cost / Cost to Maintain

Please provide fixed pricing on the following:

d. Instruments

The Intoxilyzer 9000 unit price, equipped identical to the evaluation instrument, is \$5,397.00

Please note that this does not include the simulator, printer, COBRA, computer, and carry case that will accompany the evaluation instrument.

Note: Yearly increases will be based on actual increases to CMI's cost for manufacturing the product not to exceed a 2% per annual increase.

4. **Cost / Cost to Maintain**

Please provide fixed pricing on the following:

e. Labor rates.

Technician labor rates are billed at \$79 per hour.

Engineering labor rates are billed at \$100 per hour.

4. **Cost / Cost to Maintain**

Please provide fixed pricing on the following:

f. **Parts / Supplies / Specialized Tools**

Parts and Supply prices are listed in the attached cost envelope.
The Intoxilyzer 9000 does not require any specialized tools.

Parts & Assemblies Pricing

I-9000

Assembly	Component	Product Description	Balloon #	Mfg qty	U/M	List Price
I-9000	021552	HOSE ASSY,I9000	17	1	EA	193.00
	021681	FOOT ASSY,I9000	18	1	EA	116.00
	021683	DISPLAY ASSY,NO PRINTER,I9000	14	1	EA	285.00
	021684	PANEL ASSY,REAR,I9000	13	1	EA	253.00
	021685	CHASSIS ASSY,I9000	15	1	EA	3108.00
	401262	SCR,M4x16,PNHD,PHIL,SST	22	2	EA	0.25
	402706	SCR,M4x6 PAN HD,PHIL,SST	21	6	EA	0.25
	402714	SCR,M3x6 FLAT HD,PHIL,SST	24	2	EA	0.25
	402728	SCR,M4x10 PAN HD,PHIL,SST	23	4	EA	0.25
	402746	SCR,M5x8 PR PNH,SST	20	2	EA	0.25
	408227	WSHR,1/4"x5/8 OD,.06 THK,SST	2	2	EA	0.25
	408229	WSHR,5/16"x 1/8",W/FLANGE	1	2	EA	0.25
	441416	COVER,BATTERY	8	1	EA	6.00
	441421	SHELF,BACK,INTERNAL,I9000	11	1	EA	4.00
	441427	COVER,BOTTOM,I9000	3	1	EA	15.00
	441428	COVER,MAIN,I9000	4	1	EA	36.00
	441429	DOOR,COMPARTMENT,BATTERY,I9000	7	2	EA	25.00
	441430	DOOR,COMPARTMENT,PRINTER,I9000	0	1	EA	25.00
	441431	COVER,CONN,BREATH HOSE,I9000	6	1	EA	11.00
	441435	GASKET,DISPLAY,I9000	9	1	EA	3.00
	450272	LABEL,POWER,LED	10	1	EA	32.00
	450285	LABEL,FRONT,INTOXILYZER 9000	16	1	EA	9.00

Foot Assembly

Assembly	Component	Product Description	Balloon #	Mfg qty	U/M	List Price
021681	402707	SCR,M4x8 PAN HD,PHIL,SST	18	3	EA	0.25
	402719	SCR,M4x8 FLAT HD,PHIL,SST	15	4	EA	0.25
	402728	SCR,M4x10 PAN HD,PHIL,SST	17	2	EA	0.25
	402745	SCR,M5x6 PR PNH,SST	19	2	EA	0.27
	402756	SCR,M4X10,FLAT HEAD,PHIL,SST	16	6	EA	0.25
	408229	WSHR,5/16"x 1/8",W/FLANGE	6	4	EA	0.25
	410301	SPRING,GAS,15LBS	0	1	EA	10.00
	441404P1	EXTRUSION,CUT,STABILIZER,FOOT	3	1	EA	2.50
	441406	FOOT,BASE,I9000	1	1	EA	15.25
	441407P1	EXTRUSION,PIVOT,CUT	2	2	EA	1.25
	441408	LIFT,FOOT,CONNECTOR 1	4	2	EA	4.25
	441439	ROD,LIFT,GAS SPRING	9	1	EA	10.00
	441440	LIFT,FOOT,PART B,I9000	5	2	EA	3.60
	441441	PIVOT,GAS SPRING	11	1	EA	8.00
	460078	KNOB,BASE,I9000	7	2	EA	3.25
	470231	FOOT,RUBBER,3/4"OD,13/32"H	8	3	EA	2.75

Rear Panel Assembly

Assembly	Component	Product Description	Balloon #	Mfg qty	U/M		List Price
021684	021607	SOLENOID ASSY,I9000	12	1	EA	M	113.00
	021686	FAN ASSY,I9000	11	1	EA	M	27.00
	021689	INPUT ASSY,POWER,I9000	10	1	EA	M	66.00
	400049	NUT,HEX,JAM,M3,SST	20	4	EA	B	0.25
	402715	SCR,M3x8 FLAT HD,PHIL,SST	16	2	EA	B	0.25
	402758	SCR,M3X25,PR,PHN,SST	15	2	EA	B	0.25
	402769	SCR,M3x30,FLAT HD,PHIL,SST	17	4	EA	B	0.25
	408201	WSHR,LOCK,SPRING,SST,M3	19	4	EA	B	0.25
	408205	WSHR,FLAT,SST,M3	18	4	EA	B	0.25
	410298	FITTING,PANEL MT,1/8 HOSE BARB	5	2	EA	B	22.50
	441434	PANEL,BACK,I9000	1	1	EA	B	12.25
	470232	FILTER,FAN,PLASTIC,40mm,W/FLTR	2	1	EA	B	4.00

Chassis Assembly

Assembly	Component	Product Description	Balloon #	Mfg qty	U/M	
021685	021592	CELL ASSY,I9000	21	1	EA	1625.00
	021597T	PWB ASSY,SYSTEM,NEPTUNE,TESTED	20	1	EA	1302.00
	021687	PUMP ASSY,I9000	0	1	EA	131.00
	021695	PWB ASSY,LABEL BACKLIGHT,I9000	28	1	EA	28.00
	120102	POWER SUPPLY,100W,120-240VAC	2	1	EA	140.00
	330562	CABLE ASSY,IRPCM POWER/CNTRL	25	1	EA	11.00
	330563	CABLE ASSY,POWER,SYSTEM,I9000	26	1	EA	11.00
	330564	CABLE ASSY,POWER,IRPCM,I9000	27	1	EA	11.00
	330565	CABLE ASSY,INTERNAL,BRTH HOSE	24	1	EA	17.00
	400049	NUT,HEX,JAM,M3,SST	37	6	EA	0.25
	401220	SCR,#4-40x.250 HS BTNH,STL,BO	36	1	EA	0.25
	402703	SCR,M3x10 PAN HD,PHIL,SST	30	1	EA	0.25
	402706	SCR,M4x6 PAN HD,PHIL,SST	34	4	EA	0.25
	402714	SCR,M3x6 FLAT HD,PHIL,SST	32	6	EA	0.25
	402725	SCR,M3x6 PAN HD,PHIL,SST	33	22	EA	0.25
	402730	SCR,M4x6 FLAT HD,PHIL,SST	35	2	EA	0.25
	408205	WSHR,FLAT,SST,M3	38	6	EA	0.25
	408230	WSHR,#4,x.25"OD,BLACK	39	1	EA	0.25
	408231	SCR,M3x5,FLHD,PHIL,SS	31	2	EA	0.25
	410295	FITTING,INSERT,COUPLING,1/4NPT	4	1	EA	9.00
	440584	FTG,QUICK DISC,FEMALE,1/4MPT	3	1	EA	21.00
	441403	BASEPLATE,I9000	1	1	EA	41.00
	441405	ROD,PIVOT,I9000	7	1	EA	10.00
	441407P1	EXTRUSION,PIVOT,CUT	6	2	EA	1.25
	441411	COVER,CELL	13	1	EA	11.00
	441412	BRKT,CONNECTORS,BACK	10	1	EA	14.75
	441413	BRKT,CONNECTORS,SIDE	11	1	EA	9.50
	441423	SPACER,HEAT,TEFLON	5	2	EA	5.25
	441424	INSULATION,CELL ASSY	14	1	EA	7.25
	441433	INSULATION,BOTTOM,CELL	9	1	EA	5.00
	441438	WALL,DIVIDER,CELL,I9000	8	1	EA	17.25

Display Assembly, No Printer

Assembly	Component	Product Description	Balloon #	Mfg qty	U/M	List Price
021683	140130	DISPLAY, TOUCH SCRIN, 7"	3	1	EA	155.50
	402718	SCR, M3x16 FLAT HD, PHIL, SST	15	4	EA	0.25
	402725	SCR, M3x6 PAN HD, PHIL, SST	16	4	EA	0.25
	441414	BRKT, DISPLAY, PRINTER, BTRY	1	1	EA	26.30
	441415	COMPARTMENT, BATTERY	4	1	EA	10.00
	441425	HOLDER, DISPLAY, I9000	2	2	EA	10.00
	441437	COVER, PRINTER AREA, I9000	5	1	EA	4.00

4. Cost / Cost to Maintain

Please provide fixed pricing on the following:

- g. Travel to sites if required

Travel cost will be billed at cost, which include: air fare, hotel, car rental, and \$50.00 per diem.

Labor rates will be invoiced at the technician and engineering rates listed above in this response.

4. **Cost / Cost to Maintain**

Please provide fixed pricing on the following:

- h. Any other costs not listed above

The Intoxilyzer Accessories pricing is listed in the attached cost envelope.

4. Cost / Cost to Maintain

Please provide fixed pricing on the following:

h. Any other costs not listed above

Accessories for the I-9000 Instrument Prices are listed below. Please note that these prices are for quantities of one. For volume quantities please contact CMI:

Mag Stripe Reader (integrated)	\$225.00
2-D Bar Code Reader (USB)	\$290.00
Signature Pad (USB)	\$340.00
Guth 2100 Simulator	\$989.00
Carry Case.....	\$349.00
Printer (integrated)	\$410.00
Printer (USB).....	\$249.00
COBRA V5	\$8,500.00
Lithium Ion Battery	\$370.00
Gas Delivery System.....	\$425.00

Consumables

Mouth Pieces	\$25.00
Simulator Solution.....	\$11.55
Gas (steel cylinder)	\$99.00
Printer Paper (integrated printer)	\$3.00

Note: Yearly increases will be based on actual increases to CMI's cost for manufacturing the product not to exceed a 2% per annual increase.

5. Ease of Repair / Maintenance / Calibration

- a. Vendor must include a parts list with current pricing list must be provided (as a separate attachment).

This is in the envelope included in section 4 of our response.

5. Ease of Repair / Maintenance / Calibration

- b. Vendor must include a Factory Service Manual(s) and related information.

Please find the Technical Guide included in the confidential envelope.

5. Ease of Repair / Maintenance / Calibration

- c. Vendor must include all Manufacturer Recommended Maintenance Schedules.

As an infrared-based instrument, the Intoxilyzer 9000 rarely requires calibration and therefore does not require periodic maintenance in this regard. The instrument is configured to perform self-diagnostics after being switched on and after periods of inactivity to determine that its systems are within operational limits and ranges. The instrument can be configured to perform self-diagnostics and/or calibration checks with each test performed, or on a periodic basis determined by the customer, based on their own needs or regulations. Any recommendations beyond this will be further defined in conjunction with the customer.

5. Ease of Repair / Maintenance / Calibration

- d. Vendor must include recommended tooling and equipment list for certification as Factory repair center.
 - i. Simulators (one for each concentration and water)
 - ii. Ethanol solutions (various concentrations)
 - iii. Flow meter (with air source)
 - iv. Hand tools (for disassembly/reassembly)
 - 1. Phillips head screwdrivers, #1 and #2
 - 2. Adjustable wrenches
 - 3. Diagonal cutters
 - 4. Pliers
 - 5. Nut driver 5.5mm
 - 6. Small tuning tool
 - v. Soldering/De-soldering equipment (capable of surface mount fine pitch)
 - vi. Test aids – external printer, external keyboard, various interface cables

6. Service / Warranty / Legal

- a. Provide details of "Manufacturer Legal Support" levels your company offers, e.g., FRYE / SCHRECK hearings and systemic instrument failure issues.

CMI is committed to ensuring the reliability and admissibility of the Breath Alcohol Test results (BAT). CMI's Intoxilyzer 9000 utilizes the same tried, true, and accepted scientific methods of infrared absorption technology as CMI's Intoxilyzer 5000. Any support in comparison of the two or in support of both can be made available upon request. CMI will fully support and investigate any systemic instrument failure issues. CMI will work with the State should any issues arise.

We provide various levels of legal support to our customers. Our customers have access to CMI's in-house legal department. We provide training and support for law enforcement in the operation of our instruments. We provide expert testimony when needed in court proceedings to support the admissibility of the BAT. We provide legal assistance to law enforcement to support the admissibility of the BAT. We also provide research and litigation support to Prosecutors, Solicitors, and Assistant State Attorneys on new developments in DUI law when requested. We provide support from the Trial Courts through the State Supreme Court.

6. Service / Warranty / Legal

- b. Include copy of current Manufacturer Service and Support terms

Note the Statement of Warranty attached in section 8.1 of this response.

6. Service / Warranty / Legal

- c. Include copy of current Manufacturer Service and Support Prices

CMI will extend a 15% discount off of the parts price list to the state of Colorado for the duration of this contract. The parts price list is included in section 4 of this response.

6. Service / Warranty / Legal

- d. Include a copy of Manufacturer Shop Rates

CMI's standard service shop labor rate is \$79.00/Hr.

6. Service / Warranty / Legal

- e. Provide details of Manufacturer Hardware Exchange Program, if applicable

The CMI Factory Board Exchange program allows the instrumentation owner to return non-functioning, serviceable printed circuit boards from their Intoxilyzer 9000 for exchange with a fully tested and functioning replacement. Serviceable boards returned for exchange will be replaced with an equivalent board from the board pool. These boards will have a 90 day warranty and are priced at a 40% discount from the current list price.

6. Service / Warranty / Legal

- f. Provide details of Factory Support (technical, legal and operating support including software and IT support).

CMI maintains an engineering team with over 75 years of combined experience in the configuration of instruments to a customer's requirements. These engineers also provide a mechanism for knowledge transfer to bring your staff up to speed quickly on the internal workings of the instrument establishing a deep working knowledge base within your staff. CMI engineers also assist the service department in the troubleshooting of any unique issue that might arise given a particular set of circumstances. CMI's engineering staff is capable and experienced in providing legal support to our customers in the form of expert testimony, affidavits, and document review.

CMI's software quality control personnel can assist with operational questions regarding the instrument as well as configuration and data base inquiries. Assistance with instrument issues real or perceived can also be given through the SQC.

CMI's engineering and software quality control can assist with IT or program installation questions and issues. From installation of seats of CMI's database management package to upgrades of the active COBRA system, this help is available upon request.

6. Service / Warranty / Legal

- g. Include a copy of applicable warranty information on parts and labor (Extended Warranty)

Please see the attached warranty program documents in section 8.1. and 8.2. of our response.

1. Statement of Warranty
2. Intoxilyzer 9000 Extended Warranty Programs

6. Service / Warranty / Legal

h. Provide details of applicable buyback policy on any parts or instruments

N/A

6. Service / Warranty / Legal.

- i. Provide a list of any and all related or required licenses for manufacturer or 3rd party software

The CMI License agreement is attached in Section 8.4

6. Service / Warranty / Legal

- j. Please verify the anticipated service life of the instrument. Please describe manufacturer hardware and technical support for the service life of the EBAT Instrument.

The anticipated serviceable life of the Intoxilyzer 9000 is in excess of 15 years depending on the use. CMI has provided technical support for other instruments manufactured by CMI for many years past the final sale of the last instrument in that series. CMI continues to support instruments no longer manufactured and has even offered redesigns of components on older pieces of equipment when necessary to maintain that equipment at the request of customers.

CMI stands committed to work with the states through the anticipated serviceable life of the instruments.

7. Manufacturer Training / Technical Support

- a. *Please verify awarded vendor agrees to train the CDPHE EBAT staff and certify them as a Factory Approved Independent Repair Center with ongoing Training Certification. Please verify vendor will provide Factory certified training to CDPHE Lab (EBAT) staff within 30 days after contract execution.

In order to achieve the status of CMI Factory Authorized Service Agency, the CDPHE Lab (EBAT) staff must successfully complete the Factory Certification Course on instrument maintenance and attend specialized bench time training at the factory. These training requirements are necessary for qualified people on the CDPHE staff tasked with working/repair of instruments. These requirements typically also require a degree in electronics or similar experience.

7. Manufacturer Training / Technical Support

- b. Please provide details as to the availability of manufacturer technical references and information to service.

CMI's technical references to the operation and repair of the Intoxilyzer are made available to our customers in training sessions, and as required to maintain their instruments in proper working condition.

7. Manufacturer Training / Technical Support

- c. Please provide details as to the ease of use of manufacturer technical references and information

CMI's technical information is first used by our service team where they make changes to the documents to insure the best, quickest, and simplest methods are used to maintain our instrumentation. These same instructions are shared with our customers during the numerous training sessions CMI offers. We believe that our technical documents are thorough and easy to follow for both the novice and experienced technician.

7. Manufacturer Training / Technical Support

- d. Vendor must include a EBAT Instrument Operational user guide

The Operator's Guide is included in the confidential envelope.

7. Manufacturer Training / Technical Support

- e. Please provide details as to how the vendor proposes providing clear instruction on the demonstration and use of the EBAT Instrument from the manufacturer.

The Vendor proposes to utilize audio and visual presentations coupled with the instrument training manual in a classroom setting with Colorado Staff to first familiarize staff with the instrumentation, procedures, menus, options, and software, firmware and hardware. At the conclusion of the class-room style instruction a bench time training session will take place with attendee's having hands-on experience with the instrument under the tutelage of CMI Staff. This will be hands-on training with the ability to interact with CMI staff regarding specific needs of the Colorado staff and their evaluation process.

7. Manufacturer Training / Technical Support

- f. Please describe the manufacturer software and technical software support for the service life of the EBAT Instrument.

CMI provides technical support for all aspects of the instrument's operational software. This is provided via telephonic and e-mail support directly from the CMI Engineering and/or Service team for the life of the instrument. Additionally, CMI provides training and support at the annual Intoxilyzer User's Group Conference, hosted on a rotating basis by Breath Alcohol Testing Programs nation-wide.

Statement of Warranty

New Product Warranty

CMI Inc. warrants that each new product will be free from defects in material and workmanship, under normal use and service, for a period of one year from the date of invoice to the initial purchaser. CMI's obligation is limited to repairing or replacing, as CMI may elect, any part or parts of such product, which CMI determines to be defective in material or workmanship. Warranty repairs will be performed at the factory or at a factory authorized service center.

The product, or part of the product, considered to be covered by the conditions of this warranty shall be returned, freight prepaid, in its original shipping container or similar protective container, to the factory, only after receipt of a Returned Material Authorization number from CMI. The repaired or replacement part or product will be returned from CMI or the authorized service center, freight prepaid.

Warranty coverage extends only to the original purchaser and does not include abuse, misuse, cables, switches or use of the product for other than its intended purpose. This warranty also does not apply if the product is adversely affected by attaching any feature or device to it, or is in any way tampered with or modified, without expressed written permission from CMI, Inc.

Repaired Product Warranty

Out of warranty product repairs are warranted for 90 days from the date of repair. This includes labor and those parts, which are replaced. If additional repair is required within the 90-day periods, there will be a charge for any parts that were not originally replaced. Repairs made during this 90-day period that are unrelated to the original repair are not covered under the warranty.

There are no warranties expressed or implied, including but not limited to, other than those contained in this warranty. In no event shall CMI be liable for any loss of profits or any indirect or consequential damages arising out of any such defect in material or workmanship.

INTOXILYZER®


316 E. 9th Street
 Owensboro, KY 42303
 1-800-835-0690
www.alcoholtest.com



316 East Ninth Street
Owensboro, KY 42303
866-835-0690
www.alcoholtest.com

Intoxilyzer® 9000 Warranty Programs

Gold Protection Plan

\$925.00

(per instrument per year)
volume discounts available

Includes:

Extended Warranty Coverage

- ★ Complete instrument warranty for 12 months (all instrument hardware)*
- ★ Prepaid shipping via ground carrier to and from factory**
- ★ Factory inspection and repair
- ★ Factory calibration of repaired instrument
- ★ Final tested to factory specifications
- ★ 15 workday repair turnaround time (Excludes transit time)

Annual Preventative Maintenance and Inspection

- ★ Prepaid shipping via ground carrier to and from factory**
- ★ Factory inspection and maintenance
- ★ Cleaning of internal hardware as deemed necessary
- ★ Factory calibration
- ★ Final tested to factory specifications

Silver Protection Plan

\$675.00

(per instrument per year)

Includes:

Extended Warranty Coverage

- ★ Complete instrument warranty for 12 months (all instrument hardware)*
- ★ Factory inspection and repair
- ★ Factory calibration of repaired instrument
- ★ Final test to factory specifications

If interested, please contact CMI Customer Service for more information at:

1-866-835-0690

*Warranty does not include customer incurred damage or acts of God. External printers are not covered by this warranty.

**For an instrument requiring repair or annual factory calibration, customer will contact CMI, Inc. A representative will arrange for instrument pick up and ground shipment to CMI, Inc. Instruments serviced by CMI, Inc. will be returned to designated recipient via ground shipment.

Make/Model: I-9000

Pre-DOT Submission Testing Results
IR-based instrument

Dec-11

Test	Target	1	2	3	4	5	6	7	8	9	10	Mean	SD	SE	Pass
Precision and accuracy															
0.020	0.020	0.019	0.020	0.021	0.019	0.020	0.020	0.020	0.020	0.021	0.020	0.020	0.0006	0.000	PASS
0.040	0.039	0.038	0.039	0.039	0.040	0.040	0.041	0.040	0.040	0.040	0.040	0.039	0.0008	0.000	PASS
0.080	0.079	0.078	0.079	0.079	0.079	0.079	0.079	0.082	0.080	0.080	0.079	0.079	0.0010	0.000	PASS
0.160	0.099	0.099	0.098	0.099	0.098	0.097	0.098	0.099	0.100	0.100	0.100	0.098	0.0010	-0.001	PASS
0.300	0.301	0.301	0.304	0.306	0.305	0.306	0.302	0.302	0.300	0.302	0.302	0.303	0.0021	0.002	
Blank Reading [0.000]	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		0.000	PASS
Acetone Interference															
low acetone (.020 + 70uL)	0.020	0.020	0.021	0.021	0.022	0.020	0.021	0.021	0.021	0.022	0.021	0.021	0.0006	0.001	PASS
high acetone (.020 + 115uL)	0.020	0.023	0.022	0.023	0.021	0.023	0.023	0.023	0.022	0.023	0.022	0.022	0.0007	0.002	PASS
Breath Sampling @ 0.080															
0.2 Liters/sec for 3.3 sec	0.079	0.080	0.079	0.079	0.078	0.079	0.079	0.078	0.078	0.079	0.078	0.079	0.0005	0.000	PASS
0.3 Liters/sec for 2 sec	0.079	0.078	0.078	0.077	0.078	0.078	0.080	0.078	0.078	0.079	0.078	0.077	0.0005	-0.002	PASS
0.5 Liters/sec for 4 sec	0.079	0.077	0.077	0.076	0.077	0.077	0.076	0.078	0.077	0.077	0.076	0.076	0.0005	-0.003	PASS
Power @ 0.080															
11 Volts, DC	0.079	0.078	0.079	0.079	0.080	0.079	0.078	0.080	0.079	0.080	0.080	0.079	0.0007	0.000	PASS
15 Volts, DC	0.079	0.080	0.080	0.080	0.079	0.080	0.080	0.081	0.080	0.080	0.081	0.080	0.0005	0.001	PASS
108 Volts, AC	0.079	0.079	0.079	0.079	0.079	0.081	0.080	0.080	0.079	0.080	0.080	0.079	0.0006	0.000	PASS
123 Volts, AC	0.079	0.080	0.079	0.079	0.079	0.080	0.079	0.079	0.079	0.080	0.079	0.079	0.0004	0.000	PASS
Temperature @ 0.080															
20 Deg C	0.080	0.081	0.081	0.081	0.080	0.081	0.081	0.080	0.080	0.080	0.081	0.080	0.0005	0.000	PASS
30 Deg C	0.080	0.081	0.082	0.080	0.081	0.080	0.081	0.079	0.080	0.080	0.081	0.080	0.0008	0.000	PASS
Post Vibration @ 0.080	0.080	0.081	0.081	0.081	0.080	0.081	0.081	0.080	0.080	0.080	0.081	0.080	0.0005	0.000	PASS

Notes

CMI, Inc.

STANDARD SOFTWARE LICENSE AGREEMENT -- RESTRICTED

WARNING BEFORE INSTALLING THIS SOFTWARE PLEASE READ THE FOLLOWING TERMS AND CONDITIONS. INSTALLING THIS SOFTWARE WILL INDICATE THAT YOU ACCEPT THIS AGREEMENT. IF YOU DO NOT ACCEPT THIS AGREEMENT YOU SHOULD RETURN THE SOFTWARE TO CMI FOR A REFUND. THIS SOFTWARE PRODUCT IS LICENSED NOT SOLD.

1. DEFINITIONS

"CMI" - CMI, Inc., 316 East 9th Street, Owensboro, KY. The author and copyright owner, or Licensor of this software.

"ORIGINAL SOFTWARE" - The software in this package, subsequent CMI revisions, and related documentation.

"COMPOSITE SOFTWARE" - Any software which includes any portion of the Original Software.

"DERIVATIVE SOFTWARE" - Any software which is based on the Original Software in whole or in part.

"MACHINE-READABLE SOFTWARE" - Any software which is intended to be read only by hardware.

"LICENSED SOFTWARE" - The Original, Composite, and Machine-readable Software, copies of such software, and related documentation.

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2. Indemnify and hold CMI harmless from all consequential claims and damages

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9. MAINTENANCE TERM

The initial maintenance term of this agreement is six (6) months from acceptance of this agreement, a subsequent renewed maintenance term must commence without a break from expiration of a previous maintenance term, and expires six (6) months later. Maintenance will be provided throughout the life of this agreement providing that Licensee has paid the required fees for maintenance.

10. UPGRADES TO LICENSED SOFTWARE

Revisions classified as Upgrades are made available at separate published fees.

11. APPLICATIONS SUPPORT

a) CMI will make telephone assistance available, on weekdays between 9:00a.m. and 4:00 p.m.(CST), to provide assistance to Licensee with issues associated with the Original Software.

b) Licensee may, with CMI approval, send documentation of a problem to CMI, who will use reasonable efforts to provide a solution within five (5) business days after receipt. If appropriate, CMI will use reasonable efforts to incorporate the solution in the next Revision of the Original Software. CMI does not represent or guarantee that all problems can be corrected.

c) CMI services performed beyond this Agreement scope are made at CMI's then prevailing rates covering materials, labor, and travel expenses.

d) Support is provided for the most current and previous Revision level of the Original Software, and not to Licensee's derivative or Composite Software.

12. FEES

a) Fees are exclusive of taxes, and Licensee will pay any international, federal, state, or local taxes (exclusive of taxes on CMI's net income) or other assessments.

b) Maintenance over the Initial Maintenance Term is included with purchase of the Licensed Software. The non-refundable Renewed Maintenance fee must be paid in advance of any Renewed Maintenance Term commencing.

13. TERMINATION

The License perpetually continues from acceptance of this Agreement, unless Licensee terminates or breaches this Agreement, upon which Licensee shall destroy all Licensed Software and Composite Software.

14. GENERAL

a) This Agreement is to be governed by the laws of the State of Kentucky or applicable U.S. federal law. If a provision of this

Agreement is found to be invalid by a court of competent jurisdiction, those remaining provisions shall remain in full force and effect.

b) This is the only Licensed Software Agreement between CMI and the Licensee, except where Licensee enters into a signed Agreement with CMI and which may take precedence over this Agreement.

EXHIBIT C**EBAT INTOXILYZER REPLACEMENT PROJECT TIMELINE**

Bid Award Letter for RFP # TM-LD121208 Sent	4/5/2012
Draft Contract Routed to Vendor for Signature	5/10/2012
Vendor Signed Contract Draft Routed to CDPHE Purchasing Office	5/15/2012
Contract Signed by State Controller	5/17/2012
CMI deliver COBRA Operating System for Customization and Beta Testing by State	6/1/2012
CMI Delivers 180 Intoxilyzer 9000 Units to CDPHE Lab at 8100 Lowry Blvd.	6/30/2012
CMI Delivers 20 Guth Simulators to CDPHE Lab at 8100 Lowry Blvd.	6/30/2012
CMI Delivers 20 Intoxilyzer 9000 Units to CDPHE Lab at 8100 Lowry Blvd.	7/31/2012
CMI Factory Training for EBAT Staff (3 current employees)	7/15/2012
CDPHE and OIT Configure COBRA Software for Colorado Customization	8/31/2012
CMI Delivers 367 Guth Simulators to CDPHE Lab at 8100 Lowry Blvd.	9/15/2012
EBAT Staff completes calibration, verification, and installation of 167 Units at Local Law Enforcement Agencies	9/30/2012
Transition completed and EBAT Program goes live with Intoxilyzer 9000 Units	10/1/2012

EXHIBIT D

10 YEAR BUDGET - INTOXILYZER PURCHASE AND MAINTENANCE SUPPLIES CONTRACT
CDPHE (Laboratory Services Division) and CMI, Inc.

Year	Contract Term	Mos.	Cost Per Unit	# of Units	Other	Annual Base Amount	With Escalation @ 2%/year Starting in Year 2 (5/1/2013)	Renewal Periods
	5/15/2012 - 6/30/2012	1	\$ 6,611.50	180	20 simulators @ \$949	\$ 1,209,050	\$ 1,209,050	5/1/2012 = Contract Signed
1	7/1/2012 - 6/30/2013	12	\$ 6,611.50	20	Cobra Software @ \$8,500; Factory Training for 4 @ \$590 each; Supplies @ \$20,000; and Simulators (250 @ \$899 + 117 @ \$949)	\$ 465,816	\$ 465,816	5/1/2013 = 1st renewal
2	7/1/2013 - 6/30/2014	12			Supplies	\$ 21,500	\$ 21,930	5/1/2014 = 2nd renewal
3	7/1/2014 - 6/30/2015	12			Supplies	\$ 24,000	\$ 24,919	5/1/2015 = 3rd renewal
4	7/1/2015 - 6/30/2016	12			Supplies	\$ 26,500	\$ 27,967	5/1/2016 = 4th renewal
5	7/1/2016 - 6/30/2017	12			Supplies	\$ 28,900	\$ 30,974	5/1/2017 = 5th renewal
6	7/1/2017 - 6/30/2018	12			Supplies	\$ 31,200	\$ 33,940	5/1/2018 = 6th renewal
7	7/1/2018 - 6/30/2019	12			Supplies	\$ 33,500	\$ 36,965	5/1/2019 = 7th renewal
8	7/1/2019 - 6/30/2020	12			Supplies	\$ 35,750	\$ 39,999	5/1/2020 = 8th renewal
9	7/1/2020 - 6/30/2021	12			Supplies	\$ 37,900	\$ 42,992	5/1/2021 = 9th renewal
10	7/1/2021-5/14/2022	11			Supplies	\$ 34,650	\$ 40,449	
TOTAL		120		200		\$ 1,948,766	\$ 1,975,000	