



# CITY OF HOUSTON, TEXAS

NOTICE OF BEST VALUE BID (BVB)  
SOLICITATION NO.: S12-S24258

STRATEGIC  
PURCHASING DIVISION  
"PARTNERING TO  
BETTER SERVE  
HOUSTON"

NIGP CODE:

885-78

SOLICITATION DUE  
DATE/TIME:

THURSDAY July 19, 2012 at 10:30 A.M., CST

SUBMITTAL LOCATION:

City Secretary's Office  
City Hall Annex, Public Level  
900 Bagby Street  
Houston, Texas 77002

DESCRIPTION:

CHEMICAL, LIQUID POLYMER FLOCCULENTS (PART II)  
FOR THE  
PUBLIC WORKS & ENGINEERING DEPARTMENT

PRE-BID CONFERENCE:

Date	Time
June 20, 2012	1:30 P.M.

Location

PWE, 69th St.  
Wastewater Facility,  
2525 Ssgt. Macario  
Garcia Drive, Houston,  
TX 77015

In accordance with T.L.G.C. § Chapter 252, competitive sealed Bids for the services specified will be received by the City Secretary's Office of the City of Houston at the above specified location, until the time and date cited. Offers must be in the actual possession of the City Secretary's Office on or prior to the time and date, and at the location indicated above. Late offers will not be considered.

Offers must be submitted in a sealed envelope or package with the Solicitation Number and the Offeror's name and address clearly indicated on the envelope or package. All offers must be completed in ink or typewritten. Additional instructions for preparing an offer are included in this Solicitation.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION

Solicitation Contact Person:

**Martin L. King**

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Name

**Martin.king@houstontx.gov**

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E-Mail Address

Calvin D. Wells

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City Purchasing Agent

06-01-12

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Date

**SPECIAL INSTRUCTIONS TO OFFEROR(S)**  
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**1.0 SUBMITTAL PROCEDURE:**

1.1 Sealed bids, two (2) hard copies of the Bid package, including one (1) printed original must be signed in ink on the Official Signature Page by an authorized officer of the Offering Company. Additionally, the Bid package must include the hard copy of the Electronic Bid Form and five (5) additional electronic CD copies of the Bid Forms as referenced in Section 2.3 below are required to be submitted in a sealed envelope/box bearing the assigned Solicitation Number, located on the first page of the Best Value Bid (BVB) document to:

City Secretary's Office  
City Hall Annex, Public Level  
900 Bagby St.  
Houston, Texas 77002

1.2 The deadline for the submittal of the Bid to the City Secretary's Office is no later than the date and time as indicated on the first page of the BVB document. All bids will be opened and publicly read in the City Council Chamber, City Hall Annex, Public Level, 900 Bagby St. at 11:00 AM on the solicitation due date. Failure to submit the required number of copies as stated above may be subject for disqualification from the BVB process.

1.3 Respondents may elect to either mail or personally deliver their Bids to the City Secretary's Office.

1.4 The City of Houston shall bear no responsibility for submitting responses on behalf of any Offeror. Offeror(s) may submit their Bid to the City Secretary's Office any time prior to the stated deadline.

**2.0 BEST VALUE BID FORMAT:**

2.1 The Bid should be electronically generated, printed and signed in original ink. The bid should not be submitted in elaborate or expensive binders. Legibility, clarity, and completeness are important and essential.

2.2 The Bid must be signed by an individual(s) legally authorized to bind the Offeror(s), and the City may accept this bid offer by issuance of a Contract to the said Offeror(s) at any time on or before the 180th day following the day this Official Bid Form is opened by the City. This offer shall be irrevocable for 180 days, but shall expire on the 181st day unless the parties mutually agree to an extension of time in writing.

2.3 The complete Bid packet shall consist of the following items:

<b>TABLE 1 – REQUIRED BID FORMS</b>
Signed Official Signature Page
Hard Copy of Electronic Bid Form (Pricing Sheet)
*Affidavit of Ownership.doc
*Fair Campaign Ordinance.doc
*Statement of Residency.doc
*Conflict of Interest Questionnaire.doc
List of Subcontractor(s)
M/WBE Attachment A & B Forms

\* Documents/forms can be downloaded from the City's Website: <http://purchasing.houstontx.gov/index.shtml>

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Table 2 lists other documents and forms that should be viewed/downloaded from the City's website, but are not required to be submitted with the bid. The City will request these forms, as applicable, to be completed and submitted to the City by the recommended/successful bidder:

<b>TABLE 2 - DOCUMENTS &amp; FORMS</b>
Drug Forms.doc
EEOC.doc
Formal Instructions for Bid Terms.doc
Sample Insurance Over \$50,000.pdf
Insurance Endorsements

**3.0 PRE-BID CONFERENCE:**

3.1 A Pre-Bid Conference will be held at the date, time, and location as indicated on the first page of the BVB document. Interested Offeror(s) should plan to attend. It will be assumed that potential Offeror(s) attending this meeting have reviewed the BVB in detail, and are prepared to bring up any substantive questions not already addressed by the City.

**4.0 ADDITIONAL INFORMATION AND SPECIFICATION CHANGES:**

4.1 Requests for additional information and questions should be addressed to the Administration and Regulatory Affairs Department, Strategic Purchasing Division Buyer, Martin L. King, telephone: (832) 393-8705, fax: (832) 393-8759, or e-mail (preferred method to): martin.king@houstontx.gov, no later than Monday, June 18, 2012 at 5:00 P.M. CST. The City of Houston shall provide written response to all questions received in writing before the submittal deadline. Questions received from all Offeror(s) shall be answered and sent to all Offeror(s) who are listed as having obtained the BVB. Offeror(s) shall be notified in writing of any changes in the specifications contained in this BVB.

**5.0 LETTER(S) OF CLARIFICATION:**

5.1 All Letters of Clarification and interpretations to this Solicitation shall be in writing. Any Letter of Clarification(s) or interpretation that is not in writing shall not legally bind the City of Houston. Only information supplied by the City of Houston in writing or outlined in this BVB should be used in preparing bid responses.

5.2 The City does not assume responsibility for the receipt of any Letters of Clarification sent to Offeror(s).

**6.0 EXAMINATION OF DOCUMENTS AND REQUIREMENTS:**

6.1 Each Offeror shall carefully examine all BVB documents and thoroughly familiarize themselves with all requirements prior to submitting a Bid to ensure that the Bid meets the intent of this BVB.

6.2 Before submitting a Bid, each Offeror shall be responsible for making all investigations and examinations that are necessary to ascertain conditions and requirements affecting the requirements of this BVB. Failure to make such investigations and examinations shall not relieve the Offeror from obligation to comply, in every detail, with all provisions and requirements of the BVB.

**7.0 EXCEPTIONS TO TERMS AND CONDITIONS:**

7.1 Best Value Bids: An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, may be rejected.

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**8.0 ACCEPTANCE AND REJECTION OF BIDS:**

- 8.1 The City reserves the right to accept or reject, in whole or in part, any or all bids received and to make award on the basis of individual items or combination of items, as it is deemed most advantageous or in the best interest to the City.
- 8.2 The City may accept this bid offer by issuance of a Contract covering award of said bid to this Bidder at any time on or before the 180th day following the day this Official Bid Form is opened by the City. This offer shall be irrevocable for 180 days, but shall expire on the 181st day unless the parties mutually agree to an extension of time in writing.

**9.0 HIRE HOUSTON FIRST:**

**9.1 Designation as a City Business or Local Business**

- 9.1.1 To be designated as a City or Local Business for the purposes of the Hire Houston First Program, as set out in Article XI of Chapter 15 of the Houston City Code, a bidder or proposer must submit the **Hire Houston First Application and Affidavit ("HHF Affidavit")** to the Director of the Mayor's Office of Business Opportunities and receive notice that the submission has been approved prior to award of a contract. Bidders are encouraged to secure a designation prior to submission of a bid or proposal if at all possible.

- 9.1.2 **Download the HHF Affidavit** from the Office of Business Opportunities Webpage at the City of Houston e-Government Website at the following location:

[www.houstontx.gov/obo/moreforms/hirehoustonfirstaffidavit.pdf](http://www.houstontx.gov/obo/moreforms/hirehoustonfirstaffidavit.pdf)

- 9.1.3 Submit the completed application forms to: Mayor's Office of Business Opportunity, One Stop Business Center, 900 Bagby St., Public Level, Houston, TX 77002 or Applications may be submitted via e-mail to [HHF-MOBO@houstontx.gov](mailto:HHF-MOBO@houstontx.gov) or faxed to 832.393.0952.

**9.2 Award of Procurement Pursuant to a Request for Proposal, Best Value Solicitation or Alternative--- Pursuant to Chapter --- of the Local Government Code**

- 9.2.1 IN EVALUATION OF A PROPOSAL SUBMITTED UNDER ANY OF THE ABOVE PROCUREMENT METHODS, THE CITY SHALL AWARD EXTRA POINTS EQUAL TO

9.1 **THREE PERCENT** OF THE TOTAL EVALUATION POINTS AVAILABLE TO A "LOCAL BUSINESS," AS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES, AND

9.2 **FIVE PERCENT** OF THE TOTAL EVALUATION POINTS AVAILABLE TO A "CITY BUSINESS," AS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES

9.3 UNLESS THE USER DEPARTMENT DETERMINES THAT AN AWARD TO THE LOCAL OR CITY BUSINESS WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

**10.0 PROTEST:**

- 10.1 A protest shall comply with and be resolved, according to the City of Houston Municipal Code, Chapter 15, Article 1 and rules adopted thereunder. Protests shall be submitted in writing and filed with both, the City Secretary and the City Purchasing Agent. A pre-award protest of the BVB shall be received by the City Secretary and the City Purchasing Agent prior to the Contract award date. A post-award protest of an awarded Contract shall be filed within ten (10) days after the protester knows, or should have known, the basis or outcome of the Contract award.

- 10.2 A protest shall include the following:

- 10.2.1 The name, address, e-mail, and telephone number of the protester;

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- 10.2.2 The signature of the protester or its representative who has the delegated authority to legally bind its company;
- 10.2.3 Identification of the BVB description and the BVB or Contract number;
- 10.2.4 A detailed written statement of the legal and factual grounds of the protest, including copies of relevant documents, etc.; and
- 10.2.5 The desired form of relief or outcome, which the protester is seeking.

**11.0 LOBBYING AND OTHER FORMS OF INFLUENCE PROHIBITED:**

- 11.1 Neither Offeror(s) nor any person acting on Offeror(s)'s behalf shall attempt to influence the outcome of the contract award by the offer, presentation or promise of gratuities, favors, or anything of value to any member of the Proposal evaluation committee, any appointed or elected official or employee of the City of Houston, their families or staff members. All inquiries regarding the solicitation are to be directed to the designated City Buyer identified on the first page of the BVB. Upon issuance of the BVB through the pre-award phase and up to the award of a contract, aside from Offeror's formal response to the BVB, communications publically made during the official pre-bid conference, written requests for clarification during the period officially designated for such purpose by the City Buyer and communications during an oral interview, scheduled at the request of and for the benefit of the Proposal evaluation committee, if any, neither Offeror(s) nor persons acting on their behalf shall communicate with any member of the Proposal evaluation committee, appointed or elected official or employee of the City of Houston, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the contract award or to obtain or deliver information intended to or which could reasonably result in an advantage to any Offeror. However, nothing in this paragraph shall prevent Offeror from making public statements to the City Council body convened for a regularly scheduled session after the Proposal evaluation committee has made its official selection and presented same to Council for action.

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- 1.0 This BVB does not commit the City of Houston to award an Agreement, issue a Purchase Order, or to pay any costs incurred in the preparation of a Bid in response to this request.
- 2.0 The Bid will become part of the City's official files without any obligation on the City's part. All Responses shall be held confidential from all parties other than the City until after the Bids are opened and publicly read. Afterward, the Bids shall be available to the public.
- 3.0 The City of Houston shall not be held accountable if material from responses is obtained without the written consent of the Offeror by parties other than the City, at any time during the Bid evaluation process.
- 4.0 In the event an Offeror submits trade secret information to the City, the information must be clearly labeled as a **"Trade Secret."** The City will maintain the confidentiality of such trade secrets to the extent provided by law.
- 5.0 Offeror(s) shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the City of Houston (including any and all members of the Bid evaluation committees).
- 6.0 Offeror(s) shall not collude in any manner, or engage in any practices, with any other Offeror(s), which may restrict or eliminate competition, or otherwise restrain trade. This is not intended to preclude subcontracts and joint ventures for the purposes of: a) responding to this BVB; or b) establishing a project team with the required experience and/or capability to provide the goods or services specified herein.
- 7.0 Offeror(s), their authorized representatives and their agents are responsible for obtaining, and will be deemed to have, full knowledge of the Conditions, requirements, and Specifications of the BVB at the time a Bid is submitted to the City.
- 8.0 **The Award(s) shall become effective on or about August 20, 2012 for a term of five (5) years. The City of Houston reserves the option of extending the Award(s) on a month to month or annual basis or portions thereof.**
- 9.0 If necessary for the completion of tasks required under the project, the City will provide reasonable working space to the Prime Contractor.
- 10.0 Clerical support and reproduction of documentation costs shall be the responsibility of the Prime Contractor. If required, such support and costs shall be factored into the Bid amount.
- 11.0 Prime Contractor personnel essential to the continuity, and the successful and timely completion of the project should be available for the duration of the project unless substitutions are approved in writing by the City Project Director.
- 12.0 The Prime Contractor will be expected to adhere to all standard contractual requirements of the City which shall include, but are not limited to, provisions for: Time Extensions; Appropriation of Available Funds; Approvals; Term and Termination; Independent Contractor; Business Structure and Assignments; Subcontractors; Parties in Interest; Non-Waiver; Applicable Laws; Notices; Use of Work Products; Equal Employment Opportunity; Force Majeure; and Inspections and Audits.
- 13.0 The City may terminate its performance under a Award in the event of a default by the Prime Contractor and a failure to cure such default after receiving notice of default from the City. Default may result from the Prime Contractor's failure to perform under the Terms of the Award or from the Prime Contractor becoming insolvent, having a substantial portion of its assets assessed for the benefit of creditors, or having a receiver or trustee appointed.
- 14.0 Prime Contractor must promptly report to the City Project Director any conditions, transactions, situation, or circumstances encountered by the Prime Contractor which would impede or impair the proper and timely performance of the Award.
- 15.0 The City of Houston has sole discretion and reserves the right to cancel this BVB, or to reject any or all Bids received prior to Award.

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- 16.0 The City reserves the right to waive any minor informality concerning this BVB, or to reject any or all Bids or any part thereof.
- 17.0 The City reserves the right to request clarity of any Bid after they have been received.
- 18.0 After bid award and issuance of a City of Houston purchase order, the successful Offeror shall be the Prime Contractor and responsible party for contracting and communicating the work to be performed to subcontractors, and for channeling other information between the City and subcontractors. Any subcontracting must be specified in the BVB. Any subcontracting not specified in the BVB will need prior written approval from the City Purchasing Agent.
- 19.0 Prime Contractor assumes total responsibility for the quality and quantity of all work performed, whether it is undertaken by the Prime Contractor or is subcontracted to another organization.
- 20.0 If subcontractor involvement is required in the use of license, patent, or proprietary process, the Prime Contractor is responsible for obtaining written authorization from the subcontractor to use the process, or provide another process comparable to that which is required and which is acceptable to the City, all at no additional cost or liability to the City.

**TECHNICAL SPECIFICATIONS**  
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**1.0 OVERVIEW:**

- 1.0 The City of Houston Public Works & Engineering Department's Wastewater Operations branch uses liquid polymer flocculent as an additive in the process of separating sludge from treated water. The goal is to obtain small, strong flocs which readily release clear water at minimum polymer usage. The purpose of this bid is to determine the best buy for liquid polymer flocculent to generate the best quality of sludge while minimizing cost to the City of Houston. Determination of best buy will be made based on Price, Product Test Evaluation, Service & Technical Expertise, Financial Strength of Bidder and M/WBE Capacity. However, nothing herein shall be construed as an obligation of the City to order or pay for any quantity other than the amount determined to be necessary for treatment at the facilities.
- 1.1 The following sludge types will be conditioned with the Supplier-provided polymer products: untreated waste activated sludge (fresh and/or stored), gravity thickened waste activated sludge, gravity thickened and aerobically digested waste activated sludge, aerobically digested waste activated sludge, and other sludge types. The polymer conditioned sludges will be dewatered using centrifuges or belt filter presses. Varying levels of in-line sludge and polymer mixing occurs upstream of the belt filter presses; polymer is injected at the centrifuges. Dewatered cake may be further processed using heat dryers or alkaline treatment. City biosolids are Class A or B land applied or landfill co-disposed. Some plant concentrated/heat polymer storage tanks are mixed, while such tanks at other plants are not mixed.
- 1.2 The City's waste activated sludge has a concentration that typically varies between approximately 1% and 3%. The City's gravity thickened sludge has a concentration that typically varies between approximately 2% and 5%. The City's aerobically digested sludge has a concentration that typically varies between approximately 1% and 5%. However, the concentration of these sludges may be highly variable. The amount of volatile solids in the City's sludge as well as the associated particle sizes may be highly variable. The age of the City's sludge may also be highly variable. Plant trials (Polymer Test Evaluations) will be conducted as part of the award process, due to the limited knowledge of how sludge conditioning and dewatering actually function at full-scale as opposed to bench-scale testing.
- 1.3 The quantities listed are an estimated annual usage. The award will be based on "Best Value".

**2.0 BID EVALUATION:**

- 2.1 Evaluation Summary: **Only respondents previously issued a City of Houston Certificate of Responsibility under solicitation S12-23974 are permitted to bid.** The short list of respondents may be scheduled for a structured testing analysis and assessment presentation. Such presentations will be at no cost to the City of Houston. At the end of the structured testing analysis and assessment presentation, the evaluation of the short listed respondents will be completed. The structured testing analysis and assessment presentation may be recorded and/or videotaped.
- 2.2 Award Process: The award will be made to the respondent(s) offering the response which best meets the needs of the City. The City may make investigations, as it deems necessary, to determine the capabilities of the Offeror(s) to create, modify and implement the required application modules. The Offeror(s) shall furnish to the City such data as the City may request for this purpose. The City reserves the right to reject any offer if the evidence submitted by or the investigation of the Offeror(s) fails to satisfy the City or the Offeror(s) is deemed unqualified to provide the services contemplated. Each Offeror will be evaluated on the basis of the following evaluation criteria that are listed in order of importance below:

Polymer Test Evaluation	80%
Service & Technical Expertise	10%
Price	5%
M/WBE Capacity	5%
<b>Total:</b>	<b>100%</b>

\*Hire Houston First Preference Points (City Business = five (5) extra percentage points or Local Business = three (3) extra percentage points and Non-City and Non-Local Business will receive zero (0) extra percentage points).

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**2.3 Price Composition:** The prices per pound of product shall include delivery to the designated location and the specified level as indicated on the purchase order and referenced in Technical Specifications, Section 8.0 ORDERS AND DELIVERY. Prices shall be based on a discount from a published price list submitted with the bid. The product(s) price will be determined from the plus or minus percentage applied to the manufacturer's published price list lowest unit price column as bid. The same discount shall apply to all current and future products within the same category of service and application, therefore, new products currently not available, may be purchased under the award for use if the end results reflect a lower net cost to the City. Prices shall be provided for the following categories:

2.3.1 Bulk loads delivered in approximately 4000 to 5000 gallon quantities (u1) --- 87% of total.

2.3.2 Bulk loads delivered in approximately 2500 gallon quantities (u2) --- 2% of total.

2.3.3 Full container loads (270 gallon tote bins) delivered to designated sites (no more than 3 stops per load) in flatbed trucks for offloading by City forklifts (u3)--- tote bins 7% of total.

2.3.4 Full container loads (55 gallon drums) delivered to designated sites (no more than 3 stops per load) in flatbed trucks for offloading by City forklifts (u4) --- 4% of total”.

2.3.5 Weighted average unit price along with performance data will be used to compute the total operating cost for each product.

Where  $U_w$  (weighted average unit price of polymer) =  $(0.87)(u1)+(0.02)(u2)+(0.07)(u3)+(0.04)(u4)$

2.3.6 Bidders will submit pricing for full bulk loads of antifoaming agent products and 270 gallon tote loads of antifoaming agent products to control foam at the any of City's wastewater treatment plant. Products submitted will be tested against the currently used product and will be purchased through the award if proven to be cost effective.

### 3.0 QUALITY OF POLYMER:

3.1 Only emulsion (synthesized in an inverse emulsion) and dispersion (solutions in water) type liquid polymer products (cationic, organic polyelectrolytes that are water soluble) compatible with current liquid polyelectrolytes will be considered.

3.2 Emulsion type liquid polymer products shall have a concentration range of 3 to 50% by weight; measured as total percent solids using Standard Methods 20<sup>th</sup> Edition.

3.3 Dispersion type liquid polymer products shall have a concentration range of 30 to 60% by weight; measured as total; measured as total percent solids using Standard Methods 20<sup>th</sup> Edition.

3.4 Polymer products shall be compatible with all existing City equipment that the polymer may contact without equipment modifications.

3.5 Polymer products' properties shall not damage the City's equipment. Costs for polymer related damage shall be borne by the Supplier.

3.6 Deviations in polymer properties shall be within bounds that assure only minimal fluctuations in polymer efficacy.

3.7 Polymer products shall maintain at least ninety percent (90%) effective strength for a minimum of six (6) months after delivery when stored in a covered and ventilated area or in insulated tanks. The physical and chemical characteristics of these products shall not change during this time period.

3.8 Polymer products performance shall not be significantly altered due to weather or temperature conditions, and these products' freeze-thaw recovery shall be at least 90%.

3.9 Polymer products shall have good mixing characteristics and produce minimum nuisance conditions such as scum or foam. These products shall be miscible with water in all dilutions and shall be capable of being diluted to any ratio desired to meet dosage requirements.

3.10 Polymer products' properties shall not negatively affect plant operations (e.g., biodegradation, bio-stabilization, foaming, effluent toxicity, and odors).

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- 3.11 Polymer products' properties shall not negatively affect the existing transportation and end use options for City biosolids (i.e., land application and land filling). Polymer products' properties shall not harm land application site soils or crops and shall not create nuisance conditions (e.g., odors).
- 3.12 Impurities in polymer formulations (e.g., carcinogens such as monoacrylamide, dimethylamine, and formaldehyde) shall not negatively affect plant effluent or biosolids quality.
- 3.13 The City may refuse acceptance of any container or load that exhibits offensive or unusual odor as compared to the Performance Tested product.
- 3.14 The City may refuse acceptance of any container or load that has an unusual color not generally associated with the product, or contains suspended solids visibly greater than the Performance Tested product.
- 3.15 Polymer products shall be classified as a non-hazardous material for shipping and City use. The polymer products shall be nontoxic with respect to contact with the skin and eyes and accidental ingestion or inhalation and shall not require special precautions in handling other than reasonable care and cleanliness.

#### 4.0 QUANTITY OF POLYMER:

4.1 Although not guaranteed (see Technical Specifications, Paragraph 6.0), polymer usage may be estimated from the sludge quantities listed below, the information provided in Technical Specifications, Paragraph 1.0, and other information:

Location Name	Address	Key Map	Est. Dry Ton/Year	Polymer
69 <sup>th</sup> Street	2525 S. SGT. Macario Garcia	494-R	28,500	Bulk
Sims Bayou North	9500 Lawndale	535-H	7,000	Bulk
Almeda Sims	12319 ½ Almeda Road	572-S	9,000	Bulk
Keegans Bayou	9400 White Chapel Lane	530-S	2,500	Bulk
Beltway	10518 Bellaire	529-G	3,000	Containers
Chocolate Bayou	9600 Martin Luther King	574-J	400	Containers
Greenridge	6301 #1W. Fuqua	571-X	500	Containers
Intercontinental Airport	2450 Rankin Rd.	373-H	300 (IV) + 300 (NG)	Containers
Metro Central	12815 Galveston Rd.	617-C	150	Containers
Southeast	9610 Kingspoint	576-W	1,000	Containers
Upper Braes	13525 W. Houston Center	529-A	1,000	Containers

4.1.1 Although eight (8) sites use polymer in containers (270 gallon tote bins or 55 gallon drums), deliveries are currently made to only seven (7) sites where offloading and storage capabilities exist. Intercontinental Airport simply receives containers for Northgate and Imperial Valley; however, the City reserves the right to bypass Intercontinental and make deliveries directly to these two facilities. The City also reserves the right to add additional facilities to the list of facilities using polymer (bulk or container) in the future without modifications to the award (e.g., Intercontinental Airport and Kingwood Central).

4.2 The City reserves the right to conduct tests with other products at any time. The City does not guarantee to purchase any quantity of polymer from this award.

#### 5.0 QUALITY OF ANTIFOAMING AGENT

- 5.1 Antifoaming agent products shall be compatible with all existing City equipment that the agent may contact without equipment modifications.
- 5.2 Antifoaming agent products' properties shall not damage the City's equipment. Costs for agent related damage shall be borne by the Supplier.
- 5.3 Deviations in antifoaming agent properties shall be within bounds that assure only minimal fluctuations in agent efficacy.
- 5.4 Antifoaming agent products' properties shall not negatively affect plant operations (e.g., biodegradation, bio-stabilization, effluent toxicity, and odors).

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- 5.5 **Impurities in antifoaming agent formulations shall not negatively affect plant effluent or biosolids quality.**
- 5.6 **The City may refuse acceptance of any container or load that exhibits offensive or unusual odor.**
- 5.7 **The City may refuse acceptance of any container or load that has an unusual color not generally associated with the product, or contains suspended solids visibly greater expected by the City.**
- 5.8 **Antifoaming agent products shall be classified as a non-hazardous material for shipping and City use. These products shall be nontoxic with respect to contact with the skin and eyes and accidental ingestion or inhalation and shall not require special precautions in handling other than reasonable care and cleanliness.**

**6.0 POLYMER SERVICES AND TECHNICAL EXPERTISE:** The following services shall be performed by the Supplier following award (using only qualified technical representatives that are experienced with the applicable polymer products and are experienced with and understand the operations of the applicable City facility).

- 6.1 **Initial Service** shall be provided at no additional cost to the City. Initial service shall include testing (using procedures outlined in Water Environment Research Foundation Project 91-ISP-5 Modules – “Guidance Manual for Polymer Selection in Wastewater Treatment Plants”) at each of the City’s cake/pellet preparer plant locations (See Technical Specifications, Paragraph 4.1) to select a polymer product that is most cost effective and performs as well or better than the product selected by the Supplier for the Bid Polymer Test Evaluation (Reference Technical Specifications, Paragraphs 10.0 and 11.0), as well as to determine the recommended polymer flow rate range(s), polymer solution strength, physical mixing energy required (using existing mixing equipment), and required retention time/mixer location for the ranges of sludge/polymer mixture (upstream of dewatering system). At minimum, the following tests shall be performed using representative samples (WERF Module A) from each City cake/pellet preparer plant location: general screening, sludge jar (including adjusted mixing conditions), gravity drainage, time to filter, and capillary suction time. Polymer product selection for each facility shall consider variations in sludge feed rate, solids concentration, solids size variation (gradation), sludge pH, sludge characteristics, microbial populations, as well as other site specific parameters. . A certificate of analysis (to include a target range of the parameters outlined in Paragraph 8.4) specific chemical name, MSDS, and technical specifications shall be provided for each polymer product used by the City prior to delivery. The results of each Initial Service effort (for each cake/pellet preparer plant location) shall be summarized in a memorandum to the City within 7 calendar days. This memorandum shall identify suggested operating and system changes for each plant.
- 6.2 **Additional Testing and Services** may be required at no additional cost to the City. Submitted price list shall include a silicone type antifoaming agent to be tested against the presently used product. The antifoaming agent will be purchased under this award if the product tested is shown to be cost effective.
- 6.3 **Continuing Service** shall be provided as requested by the City and at no additional cost to the City to maintain optimum wastewater sludge dewatering efficiency and insure that the most cost effective product is being used at each site. Qualified personnel shall be provided by the Supplier to perform polymer testing (at minimum sludge jar and gravity drainage testing but all required) and to evaluate the performance of the polymer feed system and dewatering equipment. Testing shall be performed using representative samples (WERF Module A). Polymer screening and testing shall be performed at least three (3) times each year or as requested by the City, or whenever the dewatered sludge concentration or polymer demand deviates from normal monthly averages by an amount greater than 15 percent. Service shall be provided within 72 hours of faxed or emailed notification of such deviations. In the event of what the City considers emergency conditions, the Supplier shall provide service within 24 hours of faxed or emailed notification. The Supplier shall have ten (10) working days to correct the City identified problems to the satisfaction of the City. Supplier services and findings for each service call shall be summarized in a memorandum to the City; this memorandum shall identify suggested operating and system changes. The service call memorandum shall be delivered to the City within 3 calendar days.

# TECHNICAL SPECIFICATIONS

## SOLICITATION NO.: S12-S24258

- 6.4 **Biosolids Management Program** participation shall be provided as requested by the City and at no additional cost to the City. The Supplier shall work in cooperation with the City's National Biosolids Partnership Biosolids Management Program (BMP) and Recognition/Certification efforts. This shall include, but not be limited to, participation in the annual Plan-Do-Check-Act process (such as participation in implementation team meetings as required, setting annual goals and objectives, training/presentations, monitoring and measurement, nonconformance/corrective action processes, preparing annual program performance report), participation in annual internal audits, and participation in periodic external audits. The BMP is a continuous improvement program conducted by the City.
- 6.5 **The City reserves the right to independently conduct further evaluation of the Supplier's products and the City reserves the right to make final selection of which product(s) are used at each City facility.**

### **7.0 ORDERS AND DELIVERY:**

- 7.1 The awarded Supplier must make adequate provisions for product supply and transportation, and must maintain close contact with User Department at all times. Deliveries are to be made to the appropriate Wastewater Facilities between the hours of 7:30 a.m. and 3:00 p.m. Monday through Friday, with provisions to be made for deliveries on holidays, weekends, and/or periods of high product demand. Note: The 69th Street and Alameda Sims facilities have 24/7 delivery.
- 7.2 The City will place orders for delivery of polymer and antifoaming agent products as required. The City's need for these products may vary widely; therefore, the Supplier must guarantee availability and deliverability and must respond promptly to all orders for delivery. Orders will be placed by phone, fax or e-mail. The order form will be signed by a designated City Representative placing the order and will contain the following information:
- O.A. Number
  - Purchase Order Number
  - Polymer Product Number
  - Quantity (bulk)
  - Number and size of containers
  - Destination
  - Hours during which delivery can be received
  - Requested delivery date
- 7.3 Orders will normally be placed to allow 10 calendar days for delivery. However, the Supplier must be able to deliver within 2 calendar days (48 hours) when required in an emergency.
- 7.4 The Supplier shall provide the following paperwork for each polymer load delivered: bill of lading, gross weight Official Certificate (bulk loads), tare weight Official Certificate (bulk loads), certificate of analysis, MSDS sheet, and spec sheet. The certificate of analysis shall contain representative measurements for the following parameters: percent activity (grams of effective product for every gram of neat polymer sample), charge density, ionic regain, molecular weight, percent dry solids (percent purity), flocculation of standard suspension (model suspension of kaolin clay), and viscosity. These parameters shall be measured using applicable Modules provided in the Water Environment Research Foundation's "Guidance Manual for Polymer Selection in Wastewater Treatment Plants" (Project 91-ISP-5). The certificate of analysis shall also indicate the specific chemical name of the polymer and an expiration date for the delivered load; this date shall be in compliance with Technical Specifications, Paragraph 3.7.
- 7.5 The Supplier shall provide the following paperwork for each antifoaming agent load delivered: bill of lading, gross weight Official Certificate (bulk loads), tare weight Official Certificate (bulk loads), MSDS sheet (with specific chemical name), and spec sheet.

## **TECHNICAL SPECIFICATIONS**

### **SOLICITATION NO.: S12-S24258**

- 7.6 All bulk product deliveries shall be shipped in stainless steel or appropriately lined tanker trailers. Prior to loading, the tanks, hoses, and discharge nozzles shall be thoroughly cleaned and inspected. Any necessary maintenance will be performed prior to shipment. Tanker rigs shall adequately protect the product from weather and wastage in transport. All access points on the tanker trailer shall be secured with a locking device and a numbered tamperproof seal prior to leaving the manufacturer's facility. The Supplier shall provide the tamper proof seal number to the facility contact prior to delivery and this number shall be printed on the bill of lading upon preparation. Loads that are unsecured, or have a broken, mislabeled, or missing seals will be rejected and returned to the Supplier at their expense. The bulk loads shall be delivered at a volume of approximately 5,000 gallons per load or 2,500 gallons per load. Upon delivery the Supplier shall ensure that the City bulk storage tanks are labeled according to applicable requirements at no additional cost to the City; the Supplier shall provide all required labels.
- 7.7 All container (270 gallon totes and 55 gallon drums) product deliveries shall be shipped in boxed trailers that can adequately protect the product from weather and wastage in transport. All access points on the trailer shall be secured with a locking device and a numbered taper seal prior to leaving the manufacturer's facility. The Supplier shall provide the tamper proof seal number to the facility contact prior to delivery and this number shall be printed on the bill of lading upon preparation. Loads that are unsecured, or have a broken, mislabeled, or missing seals will be rejected and returned to the Supplier at their expense. Container loads shall be delivered to designated sites as either a full trailer with a maximum of three stops per trailer load or partial trailer with a maximum of three stops per trailer. Containers will be offloaded by the City personnel using City-owned forklifts. Each container shall be labeled according to applicable requirements by the Supplier at no additional cost to the City.
- 7.8 The load driver will be required to check in at the administrative building upon arriving at the plant and must provided all required paperwork to the designated plant personnel for each delivery prior to offloading (e.g., bill of lading, Official Certificate indicating gross weight, certificate of analysis, etc.). The driver will not be permitted to offload the product unless the designated plant personnel accompany the driver.
- 7.9 The Supplier shall be responsible for any expense incurred in unloading the product. The Supplier shall be liable for any damages to City facilities caused by the delivery vehicle, delivery agent or delivered material. Such damages shall be corrected with seventy-two (72) hours unless normal operations are impaired or interrupted, in which case the repairs shall be started within eight (8) hours and continued non-stop at a pace that is acceptable to the City until completed. If the Supplier fails to make all repairs within the time limits, the City may procure suitable substitute service, equipment and/or material from other suppliers or vendors, and the Supplier shall be liable for any and all costs.
- 7.10 Polymer containers (tote bins & drums) shall remain the property of the Supplier. Empty containers (containing residual amounts of product) shall be collected and removed as directed by the City within 10 calendar days. . No more than eight empty totes and 20 empty drums shall be stored at any given City facility at any given time. If more containers are stored the City may procure suitable substitute collection and removal services from another organization(s), and the Supplier shall be liable for any and all costs. If a third party is used to collect the empty containers, the Supplier shall be responsible for making all necessary arrangements for such services.

**TECHNICAL SPECIFICATIONS**  
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- 7.11 Add the following paragraph: "Bulk load quantities for payment (pounds for each bulk load of polymer and antifoaming agent delivered) will be based on accurate gross and tare weights recorded on Texas Department of Agriculture (TDOA) Official Certificates (Customer copy) generated on a TDOA registered truck scale at a TDOA authorized Public Weigher facility (Reference Texas Administrative Code, Title 4, Part 1, Chapter 12 and Texas Agriculture Code, Title 2, Chapter 13). Gross and tare weight measurements shall be taken without the driver in the rig. The truck scale system shall be maintained by a TDOA licensed company per scale manufacturer and regulatory requirements, with consideration of the volume of traffic travelling across each truck scale. A copy of each load gross weight Official Certificate shall be given to the City employee responsible for accepting the load upon product delivery. A copy of each load tare weight Official Certificate shall be sent as an attachment with each applicable invoice. All Official Certificates (gross and tare for each load) must be identified with at least; the associated Bill of Lading Number, the delivery date, and the delivery site facility name and address. Costs associated with weighing each load shall be paid by the Supplier. The City may request submittal of current TDOA certificates and/or calibration certificates for each TDOA registered truck scale and TDOA authorized Public Weigher Facility used. The City reserves the right to verify the measured gross and tare weights using onsite City scales at no additional cost to the City."
- 7.12 Container load quantities for payment will be based on a City calculated pounds per 55 gallon drum and a City calculated pounds per 270 gallon tote bin. Container quantities shall be subject to count verification. The Supplier's driver and the City employee responsible for accepting the load must verify the package count, and in the event of a discrepancy, the count made by the two representatives will be accepted as actual shipment quantity. Payment will be based on the verified number of containers per load times the City calculated pounds per container. The City reserves the right to verify the weight of each delivered container.
- 7.13 The Supplier shall provide empty tare weights on TDOA Official Certificates and a summary table of all rigs used to transport bulk loads. These tare weights shall be measured following applicable methods outlined in Technical Specifications, Paragraph 8.11 and shall be measured with full fluid levels and without the driver in the rig.

# TECHNICAL SPECIFICATIONS

## SOLICITATION NO.: S12-S24258

### TECHNICAL SPECIFICATIONS FOR LIQUID POLYMER FLOCCULENT, CONTINUED:

#### **8.0 POLYMER TEST EVALUATION:**

8.1 The following equations will be used with test data and submitted prices to identify the most cost effective product:

$$R = \{K(F - E) / F(K - E)\}$$

Where: R = Fraction solids recovery, R x 100 = % recovery  
 K = Percent total solids (TS) in sludge cake  
 F = Percent TS in feed sludge  
 E = Percent total suspended solids (TSS) in centrate

$$C_P = M/V$$

Where: C<sub>P</sub> = Dilute polymer concentration, pounds neat polymer / gallon solution  
 M = Mass neat polymer per test batch, pounds  
 V = Volume of polymer plus water per test batch, gallons

$$F_{PV} = \text{metering pump rate, pounds per hour}$$

Where: F<sub>PV</sub> = mass flow rate of neat polymer when fed directly to process, pounds/hr

$$P = (C_P)(F_P)(1440 \text{ minutes/day}) \text{ Dilute polymer concentration, pounds neat polymer / gallon solution}$$

Where: P = Polymer usage, pounds/day  
 C<sub>P</sub> = Polymer concentration, pounds/gallon  
 F<sub>DP</sub> = Dilute Polymer flow rate, gallons/minute

$$S_f = (Q_S)(1440 \text{ min/day})(8.34 \text{ lbs/gal})(F)(1 \text{ ton}/2000 \text{ lb})$$

Where: S<sub>f</sub> = Sludge solids entering centrifuge, dry tons per day  
 Q<sub>S</sub> = Flow rate of liquid sludge to centrifuge, gal/min  
 F = Concentration of solids in liquid sludge, lb/lb

$$S = (S_f)(R)$$

Where: S = sludge solids processed into centrifuge cake, dry tons per day  
 S<sub>f</sub> = Sludge solids entering centrifuge, dry tons per day  
 R = Fraction recovery of feed solids

$$D = P/S$$

Where: D = Demand for polymer per dry ton of sludge, lb/ton  
 P = Polymer usage, lb/day  
 S = Sludge processed into centrifuge cake, dry tons per day

$$G = (W)\$20.00/\text{ton}$$

$$W = [(1/K) - 1]$$

Where: G = Fuel cost for drying, \$/ ton dry solids  
 W = Tons of water per ton of dry sludge solids  
 K = Concentration of dry solids in sludge cake, lb/lb

# TECHNICAL SPECIFICATIONS

## SOLICITATION NO.: S12-S24258

### TECHNICAL SPECIFICATIONS FOR LIQUID POLYMER FLOCCULENT, CONTINUED:

#### **8.0 POLYMER TEST EVALUATION CONTINUED:**

8.2 The unit prices bid and the polymer demand obtained from the test results will be used to determine the estimated total polymer costs. The total evaluated cost will include the incremental difference in the cost of fuel to dry the sludge cake. Total evaluated cost will be computed for each test product.

$$T = \{(D)(Uw) + (G)\} Y$$

Where: T = Total evaluated cost, \$/year

G = Cost of fuel to dry the sludge cake, \$/ton

Uw = Weighted average Unit price bid per pound of liquid polymer

D = Polymer demand, pounds per dry ton of sludge

Y = Quantity of sludge processed per year

#### **9.0 TEST PROCEDURES:**

- 9.1 Performance testing will be conducted on City-owned and operated Sharples Model 75000n centrifuges located at the City's 69th Street Wastewater Treatment Plant Sludge Processing Facility. All required Performance Test equipment will be provided, setup, and operated by the City; however, the City reserves the right to require that each Supplier provide City-approved polymer blending and dosing equipment (e.g., pump and dosing control); this equipment will be installed by the City.
- 9.2 Between the date of this solicitation and the Solicitation Due date; each supplier will have an opportunity to collect 69<sup>th</sup> Street sludge samples for preliminary bench scale tests to aid in the selection of the single polymer product to be used for Performance Testing. Requests for sludge samples shall be made via email with read receipt ([paul.zappi@houston.tx.gov](mailto:paul.zappi@houston.tx.gov)) at least two (2) working days in advance of sample collection. The supplier will be responsible for providing all labor, materials, and supplies needed to collect, store and analyze this sludge, as well as to perform Supplier-selected preliminary bench scale testing. Bench scale testing shall be conducted at the Supplier's laboratory.
- 9.3 A certificate of analysis (to include all information noted in Technical Specifications, Paragraph 8.4 and any other information needed to perform testing), MSDS, and technical specifications shall be submitted by each Supplier for the polymer product to be tested. This information shall be submitted within 24 hours of receipt of the test schedule.
- 9.4 Testing will pair Suppliers with elimination tournament style. Initial pairing will be based on numbers drawn by each supplier at the Pre-Bid Meeting. **THIS SHALL BE A MANDATORY PRE-BID MEETING.** The test schedule will be developed and distributed to each Supplier within one week of the Solicitation Due date (by Thursday, July 19, 2012). Although subject to change by the City, the planned Performance Test schedule will begin on the following Tuesday (July 19, 2012).
- 9.5 The plan is to schedule Suppliers drawing Numbers 1 and 2 at the Pre-Bid Meeting to compete on Tuesday of the first week and for Suppliers drawing Numbers 3 and 4 to compete on Thursday of the first week. The Supplier drawing Number 5 at the pre-bid meeting will be given a bye in the first week. The winner of the first Tuesday (Number 1 or 2) will compete against Number 5 on Tuesday of the second week. The winner of the first Thursday (Number 3 or 4) will be given a bye in the second week. The winner of the second Tuesday (Number 1, 2, or 5) will compete against the winner of the first Thursday (Number 3 or 4) on Tuesday of the third week. Although subject to change by the City, the goal is to complete all Performance Testing by Tuesday, August 17, 2012.
- 9.6 Batches of polymer from the two competing suppliers will be made up using concentrations adjusted according to bid price to make solutions equal on a cost per gallon basis.
- 9.7 The selected centrifuge will be adjusted by City personnel to a point where a change in torque and cake dryness can be tolerated by the equipment and the centrate is slightly dirty so that improvement or degradation can be observed. The adjustment will be such that performance is limited by the polymer dosage.

# TECHNICAL SPECIFICATIONS

## SOLICITATION NO.: S12-S24258

### TECHNICAL SPECIFICATIONS FOR LIQUID POLYMER FLOCCULENT, CONTINUED:

- 9.8 After the test centrifuge has been adjusted to the desired conditions and 30 minutes have passed with no adjustments, three sets of samples will be taken at set intervals (typically 15 minutes). Samples will include feed sludge, centrate and sludge cake. Data recorded at the time each sample is taken will include sludge and polymer flow rates and centrifuge torque.
- 9.9 After the three sets of samples are obtained, the polymer source will be switched to the second polymer with no other changes. Performance changes due to change in polymer will be observed and recorded. If changes are extreme enough to endanger equipment, adjustments will be made immediately and testing will be repeated at modified settings to confirm differences. Otherwise, no adjustments will be made for 30 minutes. Then 3 sets of samples will be taken at the original centrifuge setting. The centrifuge will be readjusted for the second polymer, wait 30 minutes and collect samples. Then switch back to the first polymer, observe performance changes, wait 30 minutes and collect the last set of samples.
- 9.10 All sampling and analyses procedures will be developed and executed by the City. All laboratory analyses will be performed by the City at its own expense. Data from the lab samples will be used to compare performance with adjustment for percent recovery and fuel cost for drying (or hauling) excess water in the sludge cake.
- 9.11 Total processing cost per dry ton based on City laboratory results will be the basis for scoring the polymer test evaluation criteria (Reference Technical Specifications, Paragraph 2.2.2). City laboratory results will be reviewed only if those results contradict field observations.
- 9.12 All centrifuge adjustments and polymer batching will be performed by City personnel with the Supplier's Certificate of Responsibility designated technical service representative observing. This is a test of polymer cost effectiveness under equal conditions.
- 9.13 For each test day, Suppliers shall bring enough of their selected polymer to make up three 500 gallon polymer batches at approximately 21 pounds per batch. The exact quantity for each polymer will depend on the bid price. A dollar amount using 21 pounds at the average bid price of all polymers to be tested will be divided by the bid price of each polymer to determine the pounds of that polymer for each batch. The selected polymer shall be provided by the Supplier at no cost to the City. The selected polymer shall be delivered to the test location by the Supplier at the COB on the working day prior to each test event, at no cost to the City. For each polymer product, bill of lading, a certificate of analysis representative of the delivered product (Reference Technical Specifications, Paragraph 8.4), as well as MSDS and technical specifications shall be provided at the time each product is delivered. A copy of the completely executed bill of lading shall be emailed to the City (paul.zappi@houstontx.gov) within 4 hours of delivery.
- 9.14 Only one polymer type shall be used by each Supplier throughout Performance Testing.
- 9.15 The tests described above will be conducted entirely by City personnel. Approximately 15 gallons of each product will be needed for each round of tests. As indicated above there will be 4 scheduled tests and the possibility of an additional tests if laboratory data conflicts with field data. Suppliers will not actively participate in the tests, but will be given advanced notice of the testing schedule and are encouraged to observe and witness all sampling and data collection.
- 9.16 As a result of the bids received in response to this solicitation and the aforementioned testing procedures, the Department's decision as to the "best value award" will be final and may not be subject to review or contested as a response to bidder protest(s).

**TECHNICAL SPECIFICATIONS**  
**SOLICITATION NO.: S12-S24258**

**10.0 CONFIDENTIALITY STATEMENT:**

- 10.1 The City recognizes that item(s) and/or chemical agents tested for the City of Houston's Liquid Polymer Flocculent award are the patented property of the participating manufacturer/vendor/distributor and as such the chemical makeup and processes of the item(s) tested will not be disclosed by the City as they are the private and sole proprietorship of the participating vendor.
- 10.2 In the event a participating manufacturer/vendor/distributor submits trade secret information to the City, the information must be clearly labeled as a "Trade Secret". The City will maintain the confidentiality of such trade secrets to the extent permitted by law.
- 10.3 If confidential or proprietary information is requested under the Texas Public Information Act, the City shall notify bidder of such request in order to allow the bidder to exercise its rights under Section 552.305 of the Texas Government Code.

**11.0 WARRANTY:**

- 11.1 The bidder shall warrant that all chemicals delivered on under this award is of at least as good a quality as that of the sample submitted at the request of the City of Houston, within accepted analytical tolerance for error in determination. **Any change in product will have to be approved by the City.**

# GENERAL TERMS & CONDITIONS

## SOLICITATION NO.: S12-S24258

### 1.0 TERM OF AWARD:

- 1.1 The term of the award shall be for a sixty (60) month period beginning on the date specified in the Notice of Award letter. During this period, purchase orders will be issued for items as needed. Any conflict between the terms and conditions as specified herein and said purchase orders; the term and conditions of the solicitation shall govern. The Supplier will not provide any goods/services without first having received an official City of Houston purchase order. While it is the intent to procure goods/services by issuing an Official City of Houston Purchase Order, there will be instances when a Purchasing Card (P-Card) or Petty Cash may be used. **The City requires that the prices awarded be honored on all purchases.**
- 1.2 It is emphasized that the City of Houston does not guarantee to purchase any specific quantity of any item listed; rather, the quantities may vary depending upon the actual needs of the user departments. Supplier shall remain obligated to the City under all clauses of this award that expressly or by their nature extend beyond and survive the expiration or termination of the award, including but not limited to warranties and indemnity provisions hereof.

### 2.0 OPTIONAL EXTENSION:

Subject to the availability of funding, this Award may be extended on a month-to-month basis upon acceptance of the Supplier beyond the initial awarded term. A price increase, subject to the provisions of the Award, may be requested by the supplier for approval by the City Purchasing Agent at this time. If the price increase is approved by the City Purchasing Agent or if no price increase is requested, a letter of extension will be issued by the City Purchasing Agent for the Supplier's acceptance under the same terms and conditions as the existing award.

### 3.0 SUPPLIER'S DUTY TO PAY:

Supplier shall make timely payments to all persons and entities supplying labor, materials or equipment for the performance of this award. Supplier agrees to protect, defend, and indemnify the City from any claims or liability arising out of Supplier's failure to make such payments. (Disputes relating to payment of MWBE subcontractors shall be submitted to arbitration in the same manner as any other disputes under the MWBE subcontract. Failure of the Supplier to comply with the decisions of the arbitrator may, at the sole discretion of the City, be deemed a material breach leading to termination of this award).

### 4.0 INTER-LOCAL AGREEMENTS:

Under the same terms and conditions hereunder, the award may be expanded to other government entities through inter-local agreements between the City of Houston and the respective government entity that encompass all or part of the products or services provided under this award. Separate agreements will be drawn to reflect the needs of each participating entity.

### 5.0 LOCAL PRESENCE/SOURCE:

With respect to any goods, materials, equipment, supplies, and parts furnished by it, Supplier shall have an authorized facility(s) located within the Houston-Galveston Region (Harris County and its seven adjacent counties, Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery and Waller). The facility(s) shall have adequate stock levels to support the demand requirements set forth in the bid solicitation.

### 6.0 ADDITIONS & DELETIONS:

The City, by written notice from the City Purchasing Agent to the Supplier, at any time during the term of this award, may add or delete like or similar equipment, supplies, locations and/or services to the list of equipment, supplies, locations, and/or services to be provided. Any such written notice shall take effect on the date stated in the notice from the City. Similar equipment, supplies, services, or locations added to the award shall be in accordance with the solicitation specification/scope of services, and the charges or rates for items added shall be the same as specified on the bid form. In the event additional equipment, supplies, locations and/or services are not identical to the item(s) already awarded, the charges therefore will then be the Supplier's normal and customary charges or rates for the equipment, supplies, locations and/or services classified on the bid form.

**GENERAL TERMS & CONDITIONS**  
**SOLICITATION NO.: S12-S24258**

**7.0 ESTIMATED QUANTITIES NOT GUARANTEED:**

The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of liquid polymer flocculent or antifoaming agent will be purchased during the term of this award. The quantities may vary depending upon the actual needs of the user Department. The quantities specified herein and on the electronic bid document are good faith estimates of usage during the term of the award. Therefore, the City shall not be liable for any contractual agreements/obligations the Supplier enters into based on the City purchasing/requiring all the quantities specified herein and in the electronic bid document.

**8.0 INVOICING:**

8.1 In order to expedite payment all invoices must be submitted and itemized as to quantity, part number, description, and applicable discount (if any) in the same order and form as in the City of Houston Purchase Order. Variations will only delay payment. In addition, invoices must show the name of the Department, Division or Section to which the merchandise was delivered, and the City of Houston Purchase Order Number.

8.2 All delivery tickets must have a description of the commodity delivered.

8.3 Mail invoices to the Accounts Payable – Supply Contracts, Attn. Craig Foster, P.O. Box 61689, Houston, TX 77208 – 1489.

8.4 Delivery tickets and packing slips shall contain the same information as the invoice.

8.5 All packing slips and delivery tickets must be signed by the receiving employee and must show his/her City employee number.

8.6 Invoices shall be emailed or faxed for the prior month by the 15<sup>th</sup> calendar day of the following month. If no loads were delivered for the prior month, a notice (emailed or faxed) shall be submitted by the 15<sup>th</sup> calendar day of the following month indicating that no loads were delivered during the prior month.

8.7 If the City disputes any items in an invoice the awarded supplier submits for any reason, including lack of supporting documentation, the Contract Compliance Department shall temporarily delete the disputed item and pay the remainder of the invoice. Then the Contract Compliance Department shall promptly notify the Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

**9.0 PAYMENT:**

Payment is due thirty (30) days after the City has approved the invoice or after the City has accepted the goods, whichever occurs later.

**10.0 MATERIAL SAFETY DATA SHEETS (MSDS):**

10.1 All Bidders should submit with their bid, two (2) complete, most current copies of the required Material Safety Data Sheet (OSHA Form 174), manufacturer's safety data sheet, or such other sheet that contains the same information as the OSHA Form 174 for each product bid. Should these forms be omitted from the bid, Bidder promises to deliver said forms within ten (10) working days of receipt of notice from the City. Failure to comply with this notice will be just cause for rejection of the bid from further consideration. A Material Safety Data Sheet must accompany each shipment.

10.2 Each sheet submitted should be identified by the Bidder's complete company name; formal bid number and bid form item number.

# **GENERAL TERMS & CONDITIONS**

## **SOLICITATION NO.: S12-S24258**

### **11.0 CONTAMINATED MATERIALS:**

- 11.1 Each Supplier shall be required to identify their source of supply. No material will be accepted from a hazardous or toxic waste site, regardless of whether the site has been identified by either a Local, State or Federal Agency. No contaminated, toxic, hazardous waste products or heavy metal product shall be contained in these deliveries. If any material supplied to the City is found to be contaminated or contain heavy metal products, it will be the responsibility of the Supplier to remove and replace the contaminated product at their expense and at no cost to the City. The City has the option to solicit the removal of any contaminated material and charge back the Supplier any and all costs involved.
- 11.2 It shall be the responsibility of the Supplier to make arrangements, and assume all financial obligations, including analytical costs, for the prompt clean-up and disposal of all contaminated product and associated chemical, unloading, storage, and feed systems at the affected user site, if the source of such contamination is found, subsequent to initial acceptance, to originate with any individual, or series of chemical deliveries. All clean up and disposal activities will be conducted in a manner consistent with the best available technology and conform to all local, state, and federal regulations. The Supplier shall assume the responsibility as the generator of such contaminated material, along with all inherent obligations to ensure proper disposal of contaminated material.

### **12.0 INSPECTIONS AND AUDITS:**

- 12.1 The City reserves all rights to review all payments made to Suppliers by auditing at a later date. Subject to such audit, any overpayments may be recovered from the Supplier.
- 12.2 Representatives of the City have the right to examine the books of all subcontractors and/or suppliers supplying goods and/or services under the prime award insofar as those books and records relate to performance under the prime award.
- 12.3 City representatives may have the right to perform, or have performed, (1) audits of Supplier's books and records, and (2) inspections of all places where work is undertaken in connection with this award. Supplier shall keep its books and records available for this purpose for at least three years after this award terminates. This provision does not affect the applicable statute of limitations.

### **13.0 SITE VISIT:**

When deemed necessary an inspection may be made by the Public Works & Engineering Department to determine whether a bidder actually has a facility at the location, they have listed in the bid document.

### **14.0 SILENCE OF SPECIFICATIONS:**

The apparent silence of these specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of these specifications shall be made on the basis of this statement. The Bidder shall be an established Supplier of the items bid.

### **15.0 SPECIFIED EQUIPMENT, OR EQUIVALENT:**

- 15.1 Wherever in the specifications any materials or processes are indicated or specified by patent or proprietary name and/or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating descriptions of the performance, materials and/or processes desired and shall be deemed to be followed by the words, "or equivalent", if not so stated in the specifications herein.
- 15.2 The burden of proof shall rest with the Bidder, in the course of a technical evaluation, to prove that the proposed item(s) are equivalent to the performance, materials, processes, or articles specified. **DETERMINATION AS TO WHETHER THE ITEM(S) BID IS /ARE EQUIVALENT TO THOSE SPECIFIED SHALL REST SOLELY WITH THE CITY PURCHASING AGENT AND THE RECEIVING DEPARTMENT.**

# GENERAL TERMS & CONDITIONS

## SOLICITATION NO.: S12-S24258

### **16.0 DELIVERIES:**

- 16.1 The Supplier agrees in an emergency situation to make deliveries within 24 to 48 hours only upon receipt of duly signed and approved Purchase Orders issued by the City of Houston City Purchasing Agent or designee. Delivery made without such Purchase Order shall be at Supplier's risk and shall leave the City the option of canceling any award implied or expressed herein.
- 16.2 Unless otherwise stated in the Bid Form or Specifications, deliveries must consist only of new and unused merchandise. Material shall be available for pickup in quantities as specified by the City within six (6) hours after notification by the City has been given. If the Supplier is unable to comply with the requirement, the City reserves the right to purchase material in the open market and charge the difference in cost, if any, to the Supplier.
- 16.3 The Supplier's employees entering any of the Wastewater Plant Locations will also be required to pass a security clearance. The Supplier will provide the City of Houston with a roster of these employees, and the roster must include the employee's full name, picture, and drivers license number. Any changes to the roster must be forwarded to the City's of Houston immediately upon change. The person or persons would then be issued a visitors badge.
- 16.4 In the event that the deliveries of the supplies covered in the solicitation are not made within the number of days specified, or in the event that the supplies delivered are rejected, and are not removed and replaced within the number of days specified in the official notice of rejection, the City reserves the right to terminate. The defaulting Supplier will be deemed non-responsible and may be disqualified from bidding on the solicitation if it is re-let by the City within ninety (90) days of such termination.
- 16.5 In the event the Supplier provided weights differ from the weights measured using the City's scales by more than 1,000 lbs, the Supplier's invoices, will be adjusted to reflect the weights measured using the City's scales.
- 16.6 Unloading shall be by and at the expense of the supplier.
- 16.7 The Bidder must demonstrate its ability to secure and deliver any item within 48 hours. Six (6) hour delivery services may be required in some instances; therefore, the Bidder must be able to provide such service.

### **17.0 SHIPPING TERMS:**

Prices shall be F.O.B. Destination to the delivery location designated herein or on a purchase order. The Supplier shall retain title and control of all goods until they are delivered and award of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Supplier. The Supplier shall file all claims for visible or concealed damage. The City will notify the Supplier promptly of any damaged goods and shall assist the Supplier in arranging for inspection.

### **18.0 MATERIALS:**

The items furnished shall be the latest product in production to commercial trade, and shall be of the highest quality as to materials used. The Supplier furnishing these items shall be experienced in the production of such items and shall furnish evidence of having supplied similar items, which have been in successful operation. The Bidder shall be an established Supplier of the items bid.

### **19.0 RESTOCKING (EXCHANGES AND RETURNS):**

There will be no restocking charge to the City for return or exchange of any item purchased under the terms of this award. If the City wishes to return items purchased under this award, the Supplier agrees to exchange, these items for other items, with no additional charge incurred. Items must be returned to Supplier within thirty (30) days from date of delivery. If there is a difference in price in the items exchanged, the Supplier shall invoice the City for increase price or provide the City with a credit or cash refund for any decrease in price. On items returned, a credit or cash refund will be issued by the Supplier to the City. This return and exchange option shall extend for thirty (30) days following the expiration date of the award. All items returned by the City must be unused and in the same merchantable condition as when received. **Items that are special ordered and/or stocked by the Supplier at the specific request of the City may be returned only upon approval of the Supplier.**

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**20.0 FORCE MAJEURE:**

- 20.1 Timely performance by both parties is essential to the award. However, neither party is liable for delays or other failures to perform its obligations to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.
- 20.2 This relief is not applicable unless the affected party does the following:
- 20.2.1 Uses due diligence to remove the Force Majeure as quickly as possible; and
  - 20.2.2 Provides the other party with prompt written notice of the cause and its anticipated effect.
- 20.3 The City may perform or solicit functions itself during periods of Force Majeure. Such performance does not constitute a default or breach of this award by the City.
- 20.4 If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may terminate this award by giving 30 days' written notice to Supplier. This termination is not a default or breach. **SUPPLIER WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE AT THE TIME OF THE TERMINATION.**

**21.0 SAMPLES:**

- 21.1 If requested by the City, the two (2) apparent low Bidders will be required to submit samples of the items proposed within seven (7) days of such request. The samples will be used to determine if the proposed items meet the specifications stated herein.
- 21.2 **If the Bidder fails to provide samples within the seven (7) day period, as required, the City may reject your bid and not consider it for further evaluation.**
- 21.3 These samples, if not subject to destructive testing, will be returned to the supplying Supplier. A notice will be mailed to the Supplier when samples are ready to be released by the City. Supplier will have fourteen (14) days to redeem the samples. If samples are not redeemed within this time period the City cannot be responsible for condition or loss of the subject items.

**22.0 RELEASE:**

PRIME SUPPLIER AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE CITY) FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

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**23.0 INDEMNIFICATION:**

23.1 PRIME SUPPLIER AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (1) PRIME SUPPLIER'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', AGREEMENTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "PRIME SUPPLIER") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (2) THE CITY'S AND PRIME SUPPLIER'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER PRIME SUPPLIER IS IMMUNE FROM LIABILITY OR NOT; AND
- (3) THE CITY'S AND PRIME SUPPLIER'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER PRIME SUPPLIER IS IMMUNE FROM LIABILITY OR NOT.

23.2 PRIME SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AWARD TERMINATES. PRIME SUPPLIER'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. PRIME SUPPLIER SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

**23.3 INDEMNIFICATION PROCEDURES:**

- (1) Notice of Claims. If the City or Prime SUPPLIER receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:
  - (a) a description of the indemnification event in reasonable detail,
  - (b) the basis on which indemnification may be due, and
  - (c) the anticipated amount of the indemnified loss.

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that Prime Supplier is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

- (a) Assumption of Defense. Prime Supplier may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Prime Supplier shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Prime Supplier must advise the City as to whether or not it will defend the claim. If Prime Supplier does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.
- (b) Continued Participation. If Prime Supplier elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Prime Supplier may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Supplier does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

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**24.0 INSURANCE:**

24.1 Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Award. All policies except Professional Liability and Workers' Compensation must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverage's in the following amounts:

24.1.1 Commercial General Liability insurance including Contractual Liability insurance:  
\$500,000 per occurrence; \$1,000,000 aggregate

24.1.2 Workers' Compensation including Broad Form All States endorsement:  
Statutory amount

24.1.3 Automobile Liability insurance  
\$1,000,000 combined single limit per occurrence  
Defense costs are excluded from the face amount of the policy.  
Aggregate Limits are per 12-month policy period unless otherwise indicated.

24.1.4 Employer's Liability  
Bodily injury by accident \$100,000 (each accident)  
Bodily injury by disease \$100,000 (policy limit)  
Bodily injury by disease \$100,000 (each employee)

24.2 All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, Contractor shall give written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may:

24.2.1 Immediately suspend Contractor from any further performance under this Award and begin procedures to terminate for default, or

24.2.2 Purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Award.

24.2.3 All certificates of insurance submitted by Contractor shall be accompanied by endorsements for additional insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and waivers of subrogation in favor of the City for Commercial General Liability, Automobile Liability, and Worker's Compensation/Employers' Liability policies. For a list of pre-approved endorsement forms see <http://purchasing.houstontx.gov/forms.shtml>. The Director will consider all other forms on a case-by-case basis.

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**25.0 DEMURRAGE:**

The City will be responsible for demurrage on trucks only when such charges occur because of the City's negligence in the unloading of the material, and the unloading time exceeds two (2) hours. Delays due to extended time required for sample analysis because of questions as to the quality of the sampled shipment are not to be considered negligent on the City's part and the City shall not be responsible for any demurrage charge incurred under such circumstance. Unloading time calculations may be based upon City of Houston plant operator logs. It is the carrier's responsibility to properly document all demurrage charges.

25.1 It is the responsibility of the Supplier to ensure that the carrier has all necessary equipment such as applicable tools, fitting, hoses, coupling, and off-loading equipment to effect a safe and timely unloading so as not to disrupt routine plant operations. The Supplier will ensure that the carrier's vehicles are equipped with a suitable vehicle mounted pump to allow for product offloading. The City will not be responsible for demurrage charges resulting from use of City offloading equipment in lieu of adequate carrier offloading equipment. The Supplier assumes responsibility and liability for damage to any City property, including but not limited to chemical offloading equipment, gates, vehicles, concrete, and storage tanks.

25.2 The Supplier may charge an order cancellation fee if the City fails to provide cancellation notice by phone or other means at least two hours prior to the scheduled delivery. The City of Houston will strive to place orders 48 hours (2 days) prior to requested delivery time.

**26.0 COVER FOR NON-DELIVERY:**

The Supplier agrees that if, for any reason, at any time, it shall be unable to deliver in quantities and/or quality ordered by the City of Houston via a City of Houston purchase order under these specifications, and having been notified to make a shipment, shall have failed to deliver such a shipment after notification, then the City of Houston shall be authorized to purchase such material wherever available, and the Supplier agrees to pay the City of Houston the amount paid by it, over and above the bid price.

**27.0 SUCCESSORS AND ASSIGNMENTS:**

Supplier may not assign this award or dispose of substantially all of its assets without the written consent of the City Purchasing Agent. Supplier's failure to obtain such consent shall be an event of default, authorizing the Purchasing Agent to terminate this award according to its terms.

**28.0 MINORITY AND WOMEN BUSINESS ENTERPRISES:**

28.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply contracts in at least **11%** of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Office of Business Opportunities ("OBO") and will comply with them.

28.2 Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration to be conducted in Houston, Texas if directed to do so by the OBO Director. MWBE subcontracts must contain the terms set out in "Section A, Table 2".

**29.0 TAXES:**

The City is exempt from the Federal Excise and Transportation Tax, and the limited Sales and Use Tax. Unless the Bid Form or Specifications specifically indicate otherwise, the price bid must be net exclusive of above-mentioned taxes, and will be so construed. A Supplier desiring refunds of, or exemptions from, taxes paid on merchandise accepted by the City, must submit the proper forms, and the City Purchasing Agent, if satisfied as to the facts, will approve or issue the necessary certificates.

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**30.0 AWARD:**

- 30.1 The City reserves the right to consider and make awards of bids on articles of similar nature that will in all respects serve the purpose for which the purchase is being made. The City reserves the right to be the sole judge as to whether such articles will serve the purpose.
- 30.2 Unless otherwise specified, the City reserves the right to accept or reject in whole or in part any bid submitted or to waive any informality for the best interest of the City.

**31.0 CONTRACTOR SUPPLY OF SAFETY TRAINING:**

- 31.1 The successful Bidder shall be capable of supplying and agrees to supply as a result of its participation in the bidding process formal safety training sessions to the user department. Such safety training sessions are to consist of the following and must be taught by a knowledgeable representative of the company:
- 31.2 The successful bidder will provide operator training via live trainer presentations using videotapes, handouts, and slide presentations on the general safe handling of the material.
- 31.3 Coverage in such presentation of the main safety hazards and general information as covered in the material safety data sheet.
- 31.4 Such training sessions are to be conducted on site at the user department. At least two (2) such presentations of sixty (60) minutes each shall be supplied to the user department during the first two (2) months of the Award period, and during the first (1st) month of each twelve (12) month period thereafter. Should an award period be longer than twelve (12) months, but not be for a period that is an even multiple of twelve (12) months, the training shall be supplied within the first two (2) months of the last increment as well.

**32.0 REJECTIONS:**

- 32.1 Articles not in accordance with samples and specifications must be removed by the Supplier and at his expense. All disputes concerning quality of supplies delivered under this invitation to bid will be determined by the City Purchasing Agent or designated representative.
- 32.2 All articles enumerated in the invitation to bid shall be subject to inspection on delivery by an officer designated for the purpose and if found inferior to the quality called for, or not equal in value to the Department's samples, or deficient in weight, measurements, workmanship or otherwise, this fact shall be certified to the City Purchasing Agent who shall have the right to reject the whole or any part of the same.

**33.0 BRAND NAME**

Any manufacturer's names, trade names, brand names, or catalog numbers used in the specifications are for the purpose of describing and establishing the general quality level, design and performance desired. Such references are not intended to limit or restrict bidding by other Suppliers, but are intended to approximate the quality design or performance, which is desired. Any bid, which proposes like quality, design or performance, will be considered. Equivalent products will be considered, provided a complete description and product literature is provided. Unless a specific exception is made, assumption will be that the item is bid exactly as specified on the Invitation to Bid.

**34.0 CHANGE ORDER**

- 34.1 At any time during the term of the award, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this award. The Supplier shall furnish the services or deliverables in the Change Order in accordance with the requirements of this award plus any special provisions, specifications, or special instructions issued to execute the extra work.

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- 34.2 The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent will issue the Change Order in substantially the following form:

**CHANGE ORDER**

TO: [Name of Supplier]  
FROM: City of Houston, Texas (the "City")  
DATE: [Date of Notice]  
SUBJECT: Change Order under the award between the City and [Name of Supplier]

Subject to all terms and conditions of the award, the City requests that Supplier provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:

[Signature of City Purchasing Agent or Director upon written notice to the City Purchasing Agent]

- 34.3 The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may issue more than one Change Order, subject to the following limitations:

34.3.1 Council expressly authorizes the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent, to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved awarded amount must be approved by the City Council.

34.3.2 If a Change Order describes items that Supplier is otherwise required to provide under this award, the City is not obligated to pay any additional money to Supplier.

34.3.3 The total of all Change Orders issued under this section may not increase the original award amount by more than 25%.

- 34.4 Whenever the Supplier receives a Change Order, Supplier shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Supplier shall complete the work within the time prescribed. If no time for completion is prescribed, Supplier shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Supplier is required to perform, Supplier may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.

- 34.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the original award and is subject to the terms and conditions of the original award as if it had originally been a part of the award.

**35.0 TERMINATION OF AWARD**

- 35.1 By the City for Convenience:

The City Purchasing Agent may terminate this award at any time upon 30-calendar days notice in writing to the Supplier. Upon receipt of such notice, Supplier shall, unless the notice directs otherwise, discontinue all services in connection with the performance of the award and shall proceed to cancel promptly all existing orders and awards insofar as such orders and awards are chargeable to this award. As soon as practicable after the receipt of notice of termination, the Supplier shall submit a statement to the appropriate department(s) showing in detail the services performed or items delivered under this award to date of termination. The City agrees to compensate the Supplier for that portion of the prescribed charges for which the services were actually performed or items delivered and not previously paid.

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35.2 By the City for Default by Supplier:

35.2.1 In the event that the materials and/or services furnished by the Supplier do not conform to the standard set forth herein, or if the deliveries and servicing of this award do not conform to the requirements detailed herein, the City through a written notice from the Purchasing Agent to the Supplier describing such default may as its options:

- (a) Terminate the award for default and the City shall have no further obligation.
- (b) Allow the Supplier to cure default within a reasonable time as specified in the notice. The City, at its sole option, may extend the proposed date of termination to a later date. If prior to the proposed date of termination, Supplier cures such default to the City's satisfaction, then the proposed termination shall be ineffective. If Supplier fails to cure such default prior to the proposed date of termination, then the City may terminate its performance as of such date and have no further obligation under the award.

35.2.2 In the event of failure to deliver any or all of the items or to perform required services, the City may cover its loss by reasonably procuring from another source the items not delivered or the services not performed. Supplier shall be responsible for and shall pay to the City immediately upon demand the difference in price between that offered by the Supplier and that which the City was forced to pay for covering Supplier's failure to deliver or perform services.

35.3 By the Supplier for Default by City:

35.3.1 Default by the City shall occur if the City fails to perform or observe the terms and conditions of the award required to be performed or observed by the City, and the Supplier gives notice in writing to the City within 30 calendar days of the act or omission claimed by the Supplier to constitute default on the part of the City.

35.3.2 Upon receipt of such notice in writing from the Supplier, however, the City shall have 30 calendar days to cure such default. The Supplier, at its sole option, may extend the proposed date of termination to a later date.

35.3.3 If City cures such default prior to the proposed date of termination, the proposed termination shall be ineffective. If the City fails to cure such default prior to the proposed date of termination, then the Supplier may terminate its performance as of such date.

**36.0 PATENTS**

The Supplier agrees to indemnify and save harmless the City, the City Purchasing Agent and assistants from all suits and actions of every nature and description brought against them or any of them, for or on account of the use of patented appliances, products or processes, and he shall pay all royalties and charges which are legal and equitable. Evidence of such payment or satisfaction shall be submitted, upon request of the City Purchasing Agent, as a necessary requirement in connection with the final estimate for payment in which such patented appliance, products or processes are used.

**37.0 SUPPLIER DEBT:**

If Supplier, at any time during the term of this award, incurs a debt, as the word is defined in section 15-122 of the Houston City code of ordinances, it shall immediately notify the City Controller in writing. If the City Controller becomes aware that Supplier has incurred a debt, the Controller shall immediately notify Supplier in writing. If Supplier does not pay the debt within 30 days of either such notification, the City Controller may deduct funds in an amount equal to the debt from any payments owed to Supplier under this award, and Supplier waives any recourse therefore.

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### **38.0 POST AWARD MEETING:**

Once the bid award has been approved by City Council, the Public Works & Engineering Department (PWE) will schedule a Post Award Meeting with the successful supplier and the PW&E End Users. This meeting will cover procurement, PW&E contacts, supplier invoicing, supplier payment, and all other matters related to the contract administration.

### **39.0 CONTRACT COMPLIANCE:**

1. The Department of Public Works & Engineering reserves the right to monitor this award for compliance to ensure legal obligations are fulfilled and that acceptable level of services are provided.
2. Monitoring may take the forms of, but will not necessarily be limited to:
  - 2.1 Site visits
  - 2.2 Review of deliveries received for accuracy and timeliness
  - 2.3 Review of Supplier's invoices for accuracy
3. The responsibility for monitoring compliance rests with the Contract Compliance Section, Management Support Branch of the Office of the Director, Department of Public Works and Engineering.

### **40.0 PRICE LISTS:**

#### **40.1 Internet-Based Catalog/Price List**

40.1.1 It is the City's desire that all price lists be provided electronically; therefore, if the Contractor/Supplier is submitting a bid on any price list item as an **INTERNET-BASED CATALOG**, it is mandatory that pricing is in a secure format, available to the City of Houston in an **INTRANET** fashion. No custom software should be required to access the electronic catalog. The Contractor/Supplier shall provide the ability for unlimited amount of users to order via on-line communication with the supplier's computer system by the City of Houston's PC terminals, printers, fax, or telephone. The supplier shall also provide the capability to conduct orders using the City of Houston Charge Cards (i.e. VISA, MASTER CARD, AMERICAN EXPRESS).

40.1.2 Contractor/Supplier shall provide initial and on-going training and the set-up of PCs for City of Houston end-users.

40.1.3 Contractor's/Supplier's electronic catalog should include the following features:

- 40.1.3.1 Support open technology and standards such as Open-Buying on the Internet (OBI)
- 40.1.3.2 Flexible and robust product search methods
- 40.1.3.3 Account and user profile control including dollar limit processing
- 40.1.3.4 On-line ordering using a shopping cart utility
- 40.1.3.5 On-line order/usage history reporting
- 40.1.3.6 Notification of price changes in accordance to City of Houston terms and conditions
- 40.1.3.7 Help functions
- 40.1.3.8 Order processing using the City's Procurement Card

40.2 The Contractor/Supplier shall furnish Price Lists to the Pricing Section of the Strategic purchasing Division for distribution to all ordering departments, divisions and sections of the City of Houston requiring these items. Within ten (10) working days from written notification by the City Purchasing Agent that the Contractor/Supplier has been awarded the agreement, the Contractor/Supplier shall furnish to the Pricing Section of the Strategic Purchasing Division, the number of required copies of its price list(s) bid for use by City Departments. Failure to timely furnish such price lists may result in rescinding the award. Each time a Contractor/Supplier submits a revised price list it shall furnish the number of revised price list(s) required to the Pricing Section within ten working (10) days of such revision. Failure to do so may result in rescinding the award. **THESE PRICE LIST(S) SHALL BE FURNISHED AT NO COST TO THE CITY OF HOUSTON.**

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- 40.3 Original, unaltered, manufacturers' price lists and revisions are requested. If all originals cannot be obtained, at least one (1) original plus photocopies of the original price list may be furnished provided each photocopy is certified as a true and accurate unaltered reproduction of the original. Each reproduced price list must have a notarized signature of authority that is certifying on the face thereof the copy is a true and accurate unaltered reproduction of the original. Although copies may be accepted, **IT IS A MANDATORY REQUIREMENT TO SUBMIT AT LEAST ONE (1) ORIGINAL PRICE LIST IN ORDER FOR YOUR BID TO BE CONSIDERED FOR AWARD RECOMMENDATION.**
- 40.4 A MINIMUM OF ELEVEN (11) PRICE LISTS WILL BE REQUIRED FOR EACH ITEM AWARDED FROM THE SUCCESSFUL CONTRACTOR(S)/SUPPLIER(S) PRIOR TO AWARD. **THIS IS ONLY A MINIMUM REQUIREMENT OF THE NUMBER OF PRICE LISTS AND IS SUBJECT TO INCREASE ACCORDING TO THE REQUIREMENTS OF THE DEPARTMENTS.** THE SAME OR LIKE QUANTITIES WILL BE REQUIRED FOR SUBMITTAL OF REVISED PRICE LISTS.
- 40.5 Price lists furnished for these items shall include but shall not be limited to the original manufacturer's descriptive catalogs and/or supplemental publications that clearly define each part number cost. Electronic media versions are preferred.
- 40.6 **THE CITY OF HOUSTON RESERVES THE RIGHT TO DUPLICATE THE PRICE LISTS AWARDED FOR DISSEMINATING TO THE DEPARTMENTS.**

**41.0 PRICE ADJUSTMENT:**

- 41.1 The price percentage adjustment bid shall remain firm during the full term of the award. Price adjustments will be determined from the plus or minus percentage applied to the manufacturer's published price list lowest unit price column as originally bid.
- 41.2 The price list(s) submitted with this bid will be in effect from the date bids are received and opened by the City Secretary. A price list substitution may be made any time after the agreement is awarded. This substitution will be the updated version of the price list submitted with the bid. A letter from the manufacturer stating the new price list submitted is the replacement for the one submitted with your bid must accompany the request. This letter must also state when (date) the new price list was distributed to its distributors/suppliers. **The new price list will not be accepted as a price list substitute if it was distributed and/or in the possession of the Bidder(s) before the bid due date.** Once the City Purchasing Agent approves this price list substitution, no other price list substitutions will be allowed for a period of 6-months from the date of the City's approval letter. Following each 6-month period, a request to substitute the price list(s) with revised price list(s) will be allowed subject to the City Purchasing Agent's approval. Substitute price list(s) may only be later revisions to the original price list(s) bid. Acceptance of any revised price list(s) will be considered after the Contractor/Supplier submits the following to the City of Houston City Purchasing Agent; Strategic Purchasing Division; P.O. Box 1562; Houston, Texas 77251:
- 41.2.1 A letter clearly stating **PRICE ADJUSTMENT REQUEST AND NAME AND NUMBER OF THE AWARD** in the contents and on the outside of the envelope;
- 41.2.2 Itemized revised price list indicating effective date; and
- 41.2.3 Multiple copies of the revised manufacturer's price list(s) for distribution to participating City departments.

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41.3 **Price list substitution(s) shall become effective only upon the Contractor's/Supplier's receipt of express written consent from the City of Houston City Purchasing Agent or his designee. No price increase shall be effective until such written consent is received.** If the Contractor/Supplier submits a request for price list(s) substitution in accordance with the above revisions and the City Purchasing Agent fails to approve such request, the Contractor/Supplier may terminate its performance under this award with a 30-day advance notification in writing. This will be the Contractor's/Supplier's only remedy in the event a price adjustment is not approved. The effective date of the price list(s) change shall be no earlier than 30-days following receipt of written request by the City unless otherwise stated in the approval letter from the City Purchasing Agent or his designee. **No retroactive price changes will be honored for delinquent requests.** The price in effect on the date of issue of the purchase order establishes the price to be paid.

41.4 The City of Houston, through its City Purchasing Agent, reserves the right to obtain a different source(s) to meet the requirements for any item(s) on this award which has increased in price if said item(s) may be obtained at a lower price and if it is deemed in the best interest of the City to do so.

**42.0 ADDENDA TO PRICE LIST:**

If addenda containing new items not listed in the price list(s) submitted with the original bid are received by the Contractor/Supplier from the manufacturer, the Contractor/Supplier may submit the addendums having new items identified by part number reference and highlighted in addenda price lists for easy identification to the City Purchasing Agent for consideration. The City Purchasing Agent will allow addenda only upon written acceptance and only new items may be added to the Award. No item(s) presently listed in the Contract Price List(s) will be considered from these addenda. All such addenda shall be subject to the requirements of Section 252.048 of the Texas Local Government Code.

**43.0 CONFLICT IN TERMS:**

Should there be any conflict between the General Specifications and the Technical Specifications, the Technical Specifications shall prevail.