CITY OF HOUSTON INVITATION TO BID

Issue Date: January 30, 2015

Bid Opening

Sealed bids, in duplicate, must be received at the City of Houston, City Secretary's Office, City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002 no later than Thursday, February 26, 2015 at 10:30 A.M. No bids will be accepted after the stated deadline. All bids will be opened and publicly read in the City Council Chambers, City Hall Annex, Public Level, 900 Bagby at 11:00 A.M. on that date for the goods and services listed herein.

CHEMICAL, LIQUID SODIUM
BISULFITE
FOR THE PUBLIC WORKS & ENGINEERING
DEPARTMENT BID INVITATION NO: S12-S25340
NIGP CODE: 885-48

Buyer

Questions regarding this solicitation should be addressed/submitted to **Martin King at 832-393-8705** or via e-mail at martin.king@houstontx.gov.

ELECTRONIC BIDDING

In order to submit a bid for the items associated with this procurement, you must fill in the pricing information on the **"PLACE BID"** page.

Pre-Bid

A Pre-Bid Conference will be held for all Prospective Bidders in the Public Works and Engineering Department's Materials Management Branch, 2nd Floor Conference Room, 2805 McKinney St., Houston, Texas 77003 at 10:30 a.m. Thursday, February 19, 2015.

All Prospective Bidders are urged to be present. It is the bidder's responsibility to ensure that they have secured and thoroughly reviewed all aspects of the bidding documents prior to the Pre-Bid Conference. **Any revisions to be incorporated into this bidding document arising from discussions before, during and subsequent to the pre-bid conference will be confirmed in writing by Letter(s) of Clarification prior to the bid due date. No verbal responses will otherwise alter the specifications, terms and conditions as stated herein.**

Bidding forms, specifications and all necessary information should be downloaded from the Internet at https://purchasing.houstontx.gov. By registering and downloading this bid document, all updates to this bid document will be automatically forwarded via e-mail to any registered bidder. This information may also be obtained from the office of the City Purchasing Agent, 901 Bagby, Basement, Houston, Texas 77002.

The place of the bid opening may be transferred in accordance with Paragraph B (5) of Section 15-3 of The Code of Ordinances, Houston, Texas. The bid opening meeting may be rescheduled in accordance with Paragraph B (6) of said Section 15-3.

The City reserves the right to reject any or all bids or to accept any bid or combination of bids deemed advantageous to it.

CITY EMPLOYEES ARE PROHIBITED FROM BIDDING ON THIS SOLICITATION IN ACCORDANCE WITH THE CODE OF ORDINANCES SECTION 15 - 1.

***CONTENTS**

SECTION A. - OFFER
SECTION B. - TECHNICAL SPECIFICATIONS
SECTION C. - GENERAL TERMS & CONDITIONS

***NOTE 1: Actual page numbers for each Section may change when the solicitation document is downloaded from the Internet or because of Letters of Clarification. Therefore, Bidders must read the bid document in its entirety and comply with all the requirements set forth therein.**

***NOTE 2: To be considered for award, please submit the electronic bid form and the forms listed in Section A, including the official signature page, which must be signed by a company official authorized to bind the company.**

SECTION A.

CHEMICAL, LIQUID SODIUM BISULFITE
FOR THE
PUBLIC WORKS & ENGINEERING DEPARTMENT
BID INVITATION NO. S12-S25340
NIGP CODE 885-78

Honorable Mayor and City Council Members:

The undersigned hereby proposes to furnish and deliver chemical, liquid sodium bisulfite, **FOB destination point as listed on the electronic bid form and on the individual Purchase Orders,** in accordance with the Net Prices and other conditions shown herein, and in accordance with the City's Specifications and General Terms and Condition Specifications. When issued, Letters of Clarification shall automatically become part of this bid document and shall supersede any previous specifications or provisions in conflict with the Letters of Clarification. It is the responsibility of the bidder to ensure that it has obtained such letters. By submitting a bid on this project, bidder shall be deemed to have received all Letters of Clarification and to have incorporated them into its bid. THE MANUFACTURER'S NAME, PRODUCT NAME AND PRODUCT NUMBER MUST BE DESIGNATED IN THE SPACE PROVIDED IF BIDDERS ARE BIDDING AN "OR EQUAL" ITEM.

The City may accept this bid offer by issuance of a Notice of Award Letter and/or a Purchase Order covering award of said bid to this Bidder at any time on or before the 120th day following the day this Official Bid Form is opened by the City. This offer shall be irrevocable for 120 days after the bid opening or for 90 days after City Council awards the bid, whichever comes last, but this period may be extended by written agreement of the parties.

The City of Houston reserves the option, after bids are opened, to increase or decrease the quantities listed, subject to the availability of funds, and/or make award by line item.

BIDDING AND AWARD:

It is the intent of the City to award, on the basis of low bid meeting specifications for the entire award; however, the right is reserved to accept or reject in whole or in part any or all bids received and to make an award on the basis of individual item, combination of items or overall best bid, as it is deemed in the best interest of the City.

THIS IS A SIXTY (60) MONTH AWARD

SPECIAL BIDDERS NOTE:

These bid documents are to be bid exactly as published or amended by any letter(s) of clarification that may be issued pertaining thereto.

LINE ITEM BIDS:

Only one item may be bid for each referenced line item. To bid the referenced line item and an alternate, bidder must submit a separate bid form for each alternate item(s) with its own original signature page. Multiple bids for the same line item on one bid form will be just cause to reject a bid from further consideration.

Documents/forms must be downloaded from the City's Website
https://houstontx.gov/purchasing/index.html

Additional Required Forms to be Included with this Bid:

In addition to the electronic Bid Form and the Official Signature Page, the Forms listed in Table 1 **must be completed and submitted to the Office of the City Secretary on or before the date and time the bid is due:**

Table 1
Affidavit_of_Ownership Fair_Campaign_Ordinance Statement_of_Residency Conflict_of_Interest_Questionnaire
Bidders_Attachments_Supply
Location_of_Bidders_Inventory

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:

Table 2
MWBE
Sample_Insurance_Over_$50000
Formal_Instructions_for_Bid_Terms EEOC

BIDDER'S QUESTIONNAIRE

In order to receive bid award consideration, the bidder must be able to demonstrate that they are currently providing or have had at least one contract, **as a prime supplier**, for delivering bulk liquid sodium bisulfite or water treatment chemical(s) that is similar in size and scope to this solicitation. The reference(s) should be included in the space provided below. Please attach another piece of paper if necessary. If references are not included with the bid, the bidder shall be required to provide such references to the City of Houston within five working days from receipt of a written request from the City of Houston to do so. **Bidder's capability and experience shall be a factor in determining the Supplier's responsibility. Bidder must have references documenting that it has delivered CHEMICAL, LIQUID SODIUM BISULFITE or water treatment chemical(s) that is similar in size and scope to this solicitation.**

1. Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Years of Services: _____

2. Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Years of Services: _____

3. Name: _____

   Address: _____

   City & State: _____

   Name & Phone Number of Contact: _____ Years of Services: _____

In addition to providing references for similar work and size, the following must be addressed within 10 working days of request by the City of Houston:

The City of Houston has chosen Dun& Bradstreet (D&B) to assist with the evaluation process of the contract award in two specific areas, past supplier performance and financial and operational stability. This is accomplished through your provision of requested information to D&B and our review of two (2) D&B reports:

1. Past Performance Evaluation

   This report will provide an overall rating and reliability, cost, order accuracy, delivery/timeliness, quality, order accuracy, business relations, personnel, customer support and responsiveness. To assist in the development of this report, all bidders must complete the attached forms in Section Four (4). This includes the submittal of twenty (20) business references. Completed forms are to be submitted to D&B's fulfillment partner, Open Ratings.

2. Supplier Evaluation Report

   This report will provide an independent, third-party overview of your financial and operational stability. You are not required to provide D&B with any information for this report.

   It is mandatory that you order and pay for these reports, as well as, submit proof of having ordered them with your bid document to be considered for this contract. The cost of the two reports is $225.00

   Because the Past Performance Evaluation report will take approximately 10-15 days after receipt of order form to complete, bidders are encouraged to submit their request to D&B in a timely fashion.

Past Performance Evaluation (PPE) Order Form

To order, complete the attached forms and fax or e-mail them to:

Open Ratings, Inc.

eFAX: 866-743-4239

E-MAIL: reports@openratings.com
ATTN: Mary Kelly, Past Performance Evaluation Fulfillment

SECTION ONE: ABOUT YOUR COMPANY

Enter name and contact information for the company on which the past performance evaluation/supplier evaluation report is to be prepared:

_____
(COMPANY NAME)

_____
(DUNS NUMBER)

_____
(STREET ADDRESS)

_____
(CITY, STATE, ZIP)

_____
(YOUR NAME)

_____
(TITLE)

_____
(E-MAIL ADDRESS)

_____
(COMPANY PHONE NUMBER)

_____
(COMPANY FAX NUMBER)

If you don't know your company's DUNS number, call (800) 333-0505 or look it up online at: ***http://www.dnb.com/dunsno/dunsno.htm***.

SECTION TWO: REPORT RECIPIENTS

One copy of the past performance evaluation and supplier evaluation report will be sent to the individual listed in Section 1. One additional copy will be sent to the agency specified below (additional copies of the PPE can be sent to additional recipients for a fee of $25 per additional recipient – attach additional sheets as necessary):

(AGENCY NAME)	*(COMPANY NAME)*
(AGENCY STREET ADDRESS)	*(COMPANY STREET ADDRESS)*
(CITY, STATE, ZIP)	**(CITY, STATE, ZIP)**
(AGENCY PHONE NUMBER)	*(COMPANY PHONE NUMBER)*
(AGENCY FAX NUMBER)	*(COMPANY FAX NUMBER)*
(CONTACT NAME/ATTENTION)	*(CONTACT NAME/ATTENTION)*
(E-MAIL ADDRESS)	*(E-MAIL ADDRESS)*
RFP #:	***RFP #:***

SECTION THREE: PAYMENT INFORMATION

☐ **ENCLOSED PLEASE FIND MY COMPANY CHECK**

☐ **BILL TO MY CREDIT CARD:**

☐ **AMERICAN EXPRESS** ☐ **VISA** ☐ **MASTERCARD**

CARD NUMBER:_____**EXP. DATE:** _____

SIGNATURE:_____

I AGREE TO PAY $225 FOR THE PREPARATION/DISTRIBUTION OF MY PAST PERFORMANCE EVALUATION AND SUPPLIER EVALUATION REPORT, COPIES OF WHICH WILL BE PROVIDED BOTH TO MY COMPANY AND ONE RECIPIENT IDENTIFIED IN SECTION TWO ABOVE.

I ALSO AGREE TO PAY $25 FOR EACH ADDITIONAL PPE COPY THAT I HAVE REQUESTED BE DISTRIBUTED TO ADDITIONAL RECIPIENTS IDENTIFIED IN SECTION TWO.

QUESTIONS? CONTACT OPEN RATINGS AT (617) 232-9660

SECTION FOUR: CUSTOMER REFERENCES

PLEASE PROVIDE INFORMATION ON RECENT CUSTOMERS TO BE SURVEYED *(COMPANIES WITH WHICH YOU HAVE DONE BUSINESS WITHIN THE PAST 1 YEAR)*

1. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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2. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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3. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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4. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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5. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

SECTION FOUR: CUSTOMER REFERENCES (CONTINUED)

6. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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7. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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8. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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9. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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10. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

SECTION FOUR: CUSTOMER REFERENCES (CONTINUED)

11. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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12. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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13. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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14. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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15. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

SECTION FOUR: CUSTOMER REFERENCES (CONTINUED)

16. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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17. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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18. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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19. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

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20. CUSTOMER NAME: _____

DUNS NUMBER: _____

CITY/STATE: _____

NAME OF CONTACT: _____

____ PHONE:_____FAX: _____

E-MAIL: _____

SECTION B.
TECHNICAL SPECIFICATIONS
FOR
CHEMICAL, LIQUID SODIUM BISULFITE CONTRACT

1.1 SPECIAL CONDITIONS AND QUALITY OF LIQUID SODIUM BISULFITE:

1.2 INTENDED USE AND SAMPLING PROCEDURE:

1.2.1 This chemical will be used to dechlorinate the treated effluent in the Wastewater Treatment plants in the City of Houston. The Supplier recognizes that the City's successful operation of all Wastewater Treatment facilities as well as its dechlorination of treated effluent outflow of waste are dependent upon the use of liquid sodium bisulfite solution compliant with the minimum quality standards stated in these specifications.

1.2.2 The Supplier will provide to the City a written analysis of the percentage by weight of liquid sodium bisulfite for each truckload prior to or on delivery of the first shipment. (Please note this analysis is not a certified analysis and does not require the listing of the trace elements). It shall be the Supplier's responsibility to establish a testing frequency that will ensure the product meets all specifications.

1.3 STANDARD AND METHOD OF ANALYSIS

1.3.1 The ANSI/AWWA B601-93 standard or its most recent revision shall be used for chemical analysis of this product. The Supplier's certified analysis will be the basis of payment subject to verification by the City's Quality Control Lab (QC). If significant discrepancies exist, a third party lab may be asked to retest the sample. The first retest will be paid for by the City. If unresolved discrepancies persist, special sampling procedures will be initiated whereby three (3) samples will be collected from each load at the point of delivery. The samples will be identified and sealed with a signed and dated label. One sample will be kept by the driver for return to the Supplier. The remaining two (2) samples will be sent to the City's QC lab. Any significant disagreement will be resolved by sending the third sealed sample to a qualified third party lab for testing. If results from the independent lab are in agreement with the City's analysis, the Supplier will be required to pay for the costs associated with the testing. If the results are in agreement with the Supplier's analysis, the City will pay for the testing. If it is determined that the Supplier's test results are unreliable and cannot be resolved otherwise, special sampling and testing by an independent laboratory may be continued at the Supplier's expense.

1.3.2 The Supplier shall certify, in writing, that each load of liquid sodium bisulfite solution delivered to the City is in compliance with the quality requirements of these specifications. In any event, the Supplier recognizes that delivery of liquid sodium bisulfite solution meeting the requirements of these specifications is required. To accept delivery of any amount of liquid sodium bisulfite solution not complying with the quality requirements of these specifications, "Acceptance of Delivery" shall for the purpose of this agreement occur when the City transfers a delivery of liquid sodium bisulfite solution from the Supplier's delivery vehicle to City's own storage facilities. The Supplier remains solely responsible for the quality of liquid sodium bisulfite solution prior to acceptance of delivery; acceptance of delivery by the City shall not in any respect release the Supplier from liability for damages to the City as a result of delivery by the Supplier of any load which at the time of delivery did not meet the City's minimum quality standards.

1.3.3 Failure to provide liquid sodium bisulfite solution in compliance with ANSI/AWWA B601-05 standard, or its most recent revision, will constitute a breach of this agreement. The City may seek alternative sources of suitable materials at the Supplier's expense, remedies herein, or other remedies as otherwise available at law or equity. In any event, the City shall not be responsible for payment or compensation to the Supplier for delivery of liquid sodium bisulfite solution that does not conform to the requirements stated in these specifications.

1.3.4 SPECIFICATIONS FOR LIQUID SODIUM BISULFITE:

1.3.5 The chemical shall be a liquid solution of sodium bisulfite that is approximately 38% to 42% by weight in available sodium bisulfite content. Product that does not meet the aforementioned weight percentage specifications will be paid according to the sliding scale factor described in Section C - General Terms and Conditions, Provision 4.4, "Sliding Scale Price Adjustments for Solution Rate Variation".

1.3.6 Since sodium bisulfite injection is the last step before effluent discharge, the product must not contribute any constituents that would cause violation of the Texas Surface Water Quality Standards or effluent biomonitoring requirements of any of the wastewater treatment plants in the City of Houston. The solution shall appear clear and free of suspended matter and shall be of such nature as to not interfere with proper operation of conventional displacement type chemical feed pumps. The solution shall be made from high quality ingredients so that the finished product meets the following limits:

Arsenic	less than 1 ppm
Cadmium	less than 1 ppm
Chromium	less than 1 ppm
Copper	less than 1 ppm
Cyanide	less than 1 ppm
Lead	less than 1 ppm
Mercury	less than 1 ppm
Nickel	less than 1 ppm
Selenium	less than 1 ppm
Silver	less than 1 ppm
Zinc	less than 1 ppm
Nitrate+Nitrite	less than 1 ppm
Kjeldahl Nitrogen	less than 100 ppm
Total Organic Carbon	less than 100 ppm

2.0 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.

3.0 SPECIFIED MATERIAL, OR EQUIVALENT:

3.1 Wherever in the specifications any materials or processes are indicated or specified by patent of 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.

3.2 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 THAT SPECIFIED SHALL REST SOLELY WITH THE CITY PURCHASING AGENT AND THE RECEIVING DEPARTMENT.**

SECTION C

GENERAL TERMS AND CONDITIONS FOR CHEMICAL, LIQUID SODIUM BISULFITE FOR THE PUBLIC WORKS AND ENGINEERING DEPARTMENT

1.0 TERM OF AWARD:

1.1 The term of 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 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).

3.0 OPTIONAL EXTENSION:

3.1 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.

4.0 PRICE ADJUSTMENT:

4.1 Price Adjustment Formula:

4.1.1 Price adjustments will be calculated based on the following:

4.1.1.1 The average acquisition FOB price (low and high price per short ton) for caustic soda, Avg. Acquisition FOB USGC, US$ per dry short ton as reported by IHS Global Insight-CMAI (Chemical Market Associates, Inc.).

4.1.1.2 The average price for Sulfur, recovered, long ton, for Houston, delivered, as reported by the Green Markets, published by Pike & Fischer in the first publication of the month.

4.1.1.3 The price of Henry Hub Natural Gas futures, current month, as reported by the New York Mercantile Exchange on the first published day of the month.

4.1.2 The bid price will also be the initial award price and will be in effect from the day of bid opening until the 10th of the following third calendar month. The new price will be: Old Price + [(CS2-CS1)*0.4] + [(S2-S1) * 0.3] + [(NG2-NG1) * 0.003]

4.1.2.1 CS1: Originally last reported Caustic Soda price before bid opening. Later CS1 will be the previous CS2.

4.1 Price Adjustment Formula, Continued:

4.1.2.2 CS2: Last reported Caustic Soda price before scheduled price change.

4.1.2.3 S1: originally the first published Sulfur price of the month before bid opening. Later, S1 will be the previous S2.

4.1.2.4 S2: Sulfur price reported in the first publication of the month of the scheduled price change.

4.1.2.5 NG1: Originally the natural Gas price of the first published day of the month of the bid opening. Later, NG1 will be the previous NG2.

4.1.2.6 NG2: First reported Natural Gas price of the month of the scheduled price change.

4.2 Price Adjustment Approval:

4.2.1 The Supplier shall submit the prices showing the average price, the contract price, and the resulting price by the fifth (5th) day of the month of the adjustment to be approved. Upon mutual agreement between the City and the Supplier this price will be the new effective price on the 10th calendar day of the month. The letter and documentation shall be sent to the following address:

City Purchasing Agent
City of Houston
P.O. Box 1562
Houston, TX 7725

4.2.2 If, at any time after approving a price increase, the City Purchasing Agent determines that the City can obtain the same item at a lower price from a different source without violating the State bid law, the City may then purchase the item from the lower price source without any obligation to the Supplier.

4.3 Transportation and Weighing:

4.3.1 Supplier shall guarantee to assure that either their own or any common carrier used for transportation shall be covered by all appropriate insurance required by any and all state and federal agencies for the transport of hazardous chemicals. Supplier shall further guarantee to assure that all vehicles are properly placarded and/or labeled, and suitable maintained and equipped for the safe transport and delivery of hazardous chemicals.

4.3.2 Supplier shall ensure that all delivery vehicles be equipped with spill prevention and containment apparatus (including drip containers, absorbent pads and other clean-up materials). The driver must be trained in the proper use of these materials to prevent spills and damage to the environment and use diligence in the clean-up thereof.

4.3.3 All delivery tickets must have a description of the product delivered, and be accompanied by a State Certified Weight ticket showing Gross, Net and Tare weights for each shipment. If weights are obtained at other than the destination Purification Facility, such weights are subject to verification at the discretion of the City.

4.4 SLIDING SCALE PRICE ADJUSTMENTS FOR SOLUTION RATE VARIATION:

The awarded Supplier shall be paid by a sliding scale factor for product received based on actual weight percentage as listed below.

Actual Percent by Weight of Sodium Bisulfite	Percent Unit Price
42.00 to 38.00	100%
37.99 to 37.00	90%
36.99 to 36.00	80%
35.99 to 35.00	70%
34.99 to 34.00	60%
33.99 to 33.00	50%
32.99 to 00.00	0%

Any delivery above 42 percent by weight of sodium bisulfite will be paid at a solution rate of 42 percent. A certificate of analysis on percentage by weight of sodium bisulfite for all truckloads delivered to the City will be required.

5.0 QUANTITY OF LIQUID SODIUM BISULFITE:

City's demand for liquid sodium bisulfite varies over a wide range depending on plant flow and levels of production; therefore, the Supplier must guarantee availability and deliverability to meet the total needs of the system. Failure to respond, which results in operational shut down of the equipment for lack of liquid sodium bisulfite, shall be deemed breach of contract with all legal remedies.

6.0 LIQUIDATED DAMAGES:

All prospective bidders are hereby notified that the Department's specified product deliver time is important to plant operations and scheduling. Late deliveries will cause damage to the City. As such, late deliveries shall be subject to liquidated damages of one percent per day of the total dollar amount of the subject quantity in the specific purchase order, or quantity of materials requested for delivery specified on one order. Liquidated damages shall apply for all days past the specified days for delivery after receipt of the quantity specified in the purchase order, or date of requested delivery under a blanket purchase order.

7.0 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. Invoices received that are not in agreement with the conditions set forth herein shall be returned for correction and will result in payment being delayed.

7.1 The City of Houston's standard payment term is to pay 30 days after approval of invoice or receipt of goods and services, whichever is later, according to the requirements of the Texas Prompt Payment Act (Tx. Gov't Code, Ch. 2251). However, the City will pay in less than 30 days in return for an early payment discount from vendor as follows:

Payment Time - 10 Days: 2% Discount
Payment Time - 20 Days: 1% Discount

7.2 A Supplier may elect not to offer a discount for early payment and the City will make payment net 30 days. Discounts will not be considered in the award evaluation.

7.3 If the City fails to make a payment according to the early payment schedule above, but does make payment within the time specified by the Prompt Payment Act, the City shall not receive the discount, but shall pay no other penalty. When the payment date falls on a Saturday, Sunday or official holiday when City offices are closed and the City business is not expected to be conducted, payment may be made on the following business day.

8.0 INVOICING:

8.1 In order to expedite payment all invoices must be, 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, including facility or plant site to which the merchandise was delivered, and the City of Houston Purchase Order Number. Invoicing package must also include Supplier written certification that product delivered is compliant with specification, along with weight tickets from a state certified scale for payments to be made.

8.2 All delivery tickets must have a description of the commodity delivered. Delivery tickets must also contain the same information as the invoice, signature of receiving employee and his/her City Employee number.

8.3 Mail original invoices to the Accounts Payable Supply Contracts Section at P.O. Box 61489, Houston, Texas 77208. Electronic copies of invoices should also be sent to the designated Department, Division or Section Representative.

8.4 If the City disputes any item in an invoice the awarded Supplier submits for any reason, including for lack of supporting documentation, the Contract Compliance Department shall temporarily delete the disputed item and recommend the remainder of the invoice for payment. The Contract Compliance Department shall promptly notify the Supplier of the dispute and request remedial action. If the dispute is settled in favor of the Supplier, the Supplier shall include the disputed or settled amount on a subsequent regularly scheduled invoice or a special invoice for the disputed or settled item only.

9.0 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 sodium bisulfite 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.

10.0 CONTAMINATED MATERIALS:

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 via an issued purchase order, 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 arrange the removal of any contaminated material and charge back the Supplier any and all costs involved.

11.0 INSPECTIONS AND AUDITS:

10.1 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.

10.2 Representatives of the City have the right to examine the books of all suppliers supplying goods and/or services under the issued purchase order insofar as those books and records relate to performance under the issued purchase order.

10.3 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 the issued purchase order. 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.

12.0 DELIVERY:

12.1 The Supplier agrees to make deliveries only " **after**" receipt of duly signed and approved Purchase Orders issued by the City of Houston, **"and only after ordered by an authorized representative of the user department."**

12.2 POINT OF DELIVERY:

Shipment of liquid sodium bisulfite to the City of Houston must be accompanied by Material Safety Data Sheets (MSDS) to the following Public Works and Engineering Department user sites at the specified delivery times, including any other location deemed necessary by the City of Houston: Deliveries are to be made to the appropriate sites, Monday through Friday, unless otherwise specified, at the times indicated herein, with standard provisions to be made for deliveries on holidays, weekends and during periods of high product demand. There can be no extra charges to the City for pre-loaded trailers or weekend or holiday deliveries, if deliveries are requested for these times.

Turkey Creek	T.P.	1147 Enclave	7:30 A.M - 3:00 P.M.
Northgate	T.P.	303 Benman	7:30 A.M - 3:00 P.M.
Sims Bayou South	T.P.	3013 Old Galveston Rd.	7:30 A.M - 3:00 P.M.
Greenridge	T.P.	6301 W. Fuqua	7:30 A.M - 3:00 P.M.
Intercontinental	T.P.	2450 Rankin	7:30 A.M - 3:00 P.M.
Beltway	T.P.	10518 Bellaire	7:30 A.M - 3:00 P.M.
Easthaven	T.P.	8545 Scranton	7:30 A.M - 3:00 P.M.
West District	T.P.	255 Isolde	7:30 A.M - 3:00 P.M.
Sims Bayou	T.P.	9500 Lawndale	7:30 A.M - 8:00 P.M.
Almeda Sims	T.P.	12319 1/2 Almeda	24 HOUR DELIVERY
White Oak	T.P.	7103 W. Gulf Bank	7:30 A.M - 3:00 P.M.
FWSD # 23	T.P.	8219 Kellett	7:30 A.M - 3:00 P.M.
Northeast	T.P.	655 Maxey	7:30 A.M - 3:00 P.M.
Northwest	T.P.	5423 Mangum	7:30 A.M - 3:00 P.M.
Southwest	T.P.	4503 Beechnut	7:30 A.M - 3:00 P.M.
Southeast	T.P.	9610 Kingspoint	7:30 A.M - 3:00 P.M.
Chocolate Bayou	T.P.	9600 Martin Luther King	7:30 A.M - 3:00 P.M.
Homestead	T.P.	5565 Kirkpatrick	7:30 A.M - 3:00 P.M.
Northbelt	T.P.	14800 Peartex	7:30 A.M - 3:00 P.M.
WCID III	T.P.	10601 Huntington Point	7:30 A.M - 3:00 P.M.
Upper Brays	T.P.	13525 Old Westheimer	7:30 A.M - 3:00 P.M.
69th Street	T.P.	2525 S/Sgt. Macario Garcia	24 HOUR DELIVERY
Imperial Valley	T.P.	15500 Cotillion	7:30 A.M - 3:00 P.M.
Clinton Park	T.P.	9030 Clinton	7:30 A.M - 3:00 P.M.
Keegans Bayou	T.P.	9400 White Chapel	7:30 A.M - 3:00 P.M.
WCID #47	T.P.	7410 Galveston Rd.	7:30 A.M - 3:00 P.M.
Northborough	T.P.	13131 N. Freeway	7:30 A.M - 3:00 P.M.
Sagemont	T.P.	11700 Sagearbor	7:30 A.M - 3:00 P.M.
MUD 203	T.P.	1215 Gears Road	7:30 A.M - 3:00 P.M.

12.3 It is the responsibility of the Supplier to ensure that the carrier has all necessary equipment such as 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 carrier vehicles are equipped with a suitable vehicle mounted pump to allow for product offloading.

12.4 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.

12.5 The Supplier and/or carrier are responsible for containment and cleanup of any product material released during transportation, delivery or unloading. The unloading area is to be free of any product material after offloading has been completed. The City reserves the right to delay final weighing of the carrier vehicle, at no cost to the City for demurrage or other costs, until any spilled product has been cleaned to the City's satisfaction or an acceptable agreement for cure has been reached between the Supplier and the City.

12.6 The Supplier assumes responsibility for damage to any City property, including but not limited to chemical offloading equipment, gates, vehicles, concrete and storage tanks. Supplier shall be liable for any damages caused by the delivery vehicle, delivery agent, or delivered material; and such damages shall be corrected within seventy-two (72) hours unless normal operations are impaired or interrupted in which case the repairs will be started within eight (8) hours and continued nonstop until completed. The only exceptions to these conditions must have written recommendations by the Branch Manager, Wastewater Operations Branch subject to approval by the Public Works & Engineering Director.

12.7 The Supplier must comply with site-specific safety training and regulations while in the plant. It will be the responsibility of the supplier's carrier to equip each vehicle entering the facility with appropriate personal protective equipment (PPE) such as safety shoes, safety glasses with side shields and NIOSH/MSHA approved respirators for the safe offloading and spill cleanup associated with normal offloading procedures. The City reserves the right to request the Supplier to replace any delivery personnel who refuses to comply with City regulations.

12.8 Additional supplies may occasionally be required on an emergency basis. Supplier must make provisions for emergency delivery outside of the above-listed normal delivery timelines, to maintain adequate supply. In an emergency the Supplier must be able to deliver within 8 hours of the order being placed.

12.9 The Supplier must provide a roster of its employees and/or designated drivers to the respective Wastewater Plant locations for required security clearance. Roster must include employee's and/or designated agent's full name, driver's license number, and must be accompanied by clear photos of each employee and/or designated driver and copies of their drivers' licenses. Employees who have been screened will then be issued a visitor's badge. Any changes to the roster must be forwarded to the City prior to such employees arriving at any of the Wastewater Plant locations. **Employees and/or designated agents not listed on the Supplier's roster will not be allowed entry into the facility.**

12.10 No deliveries will be accepted after the specified time of delivery noted in Section 12.2 unless special arrangements are made with the City or an emergency arises that requires a special delivery outside of the above mentioned times. A weight ticket from a state certified scale shall be furnished with each shipment showing the Gross, Tare and Net weight. The Supplier's truck will need to be equipped with male or female two (2) inch poly-glass connectors in order to connect to the sodium bisulfite tanks. Deliveries to any plant sites shall be made by tank trucks within twenty-four (24) hours after receiving an order from the City. The quantity per delivery shall be from 4,000-5,000 gallons as directed by the Wastewater Operations Division ordering personnel and samples shall be taken for testing by the Wastewater Operations Laboratory. The Supplier shall call the Control Center at (832)395-4955 or (832)395-4956 one (1) hour prior to arriving at the delivery site to confirm the actual delivery time. If there is a delay in the delivery schedule, Supplier must notify the Control Center immediately, as time is of the essence for this contract and Supplier must make provisions to ensure and maintain adequate supply of the product.

13.0 WARRANTY:

The Bidder shall warranty that all liquid sodium bisulfite delivered, by the successful Bidder, is of at least as good a quality as that of the sample submitted with its bid, within accepted analytical tolerance for error in determination.

14.0 BASIS FOR REJECTION:

14.1 The City of Houston may reject and refuse delivery of any truckload lot of liquid sodium bisulfite solution that is not within the specific maximum and minimum limits of the listed parameters as enumerated in the "QUALITY" specification section.

14.2 In the event that a shipment is rejected for failure to meet specifications, the Supplier must furnish an emergency replacement shipment to the affected location within four (4) hours or as agreeable to the receiving department. Any additional expense associated with the replacement shipment over and above the contract price shall be at the expense of the Supplier. In the event a replacement shipment causes City Operations and/or laboratory personnel to remain on overtime to receive and sample the replacement shipment the Supplier shall reimburse the City the sum of fifty dollars ($50) per hours for each hour or portion of an hour after 3:30 P.M. that City personnel must remain on site to receive the replacement shipment. Supplier must provide proof that rejected load has not been returned or commingled with the replacement batch of the product. Misrepresentation of replacement product or failure to supply replacement product in accordance with the specifications herein may be grounds for termination of this Agreement.

15.0 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 off-loading is 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.

16.0 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.

17.0 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 awarded 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 under the Award, the charges therefor 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.

18.0 FORCE MAJEURE:

18.1 Timely performance by both parties is essential to this award. However, neither party is liable for delays or other failures to perform its obligations under this Award 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. In case of emergencies, the Supplier will provide the City 24/7 contact information.

18.2 This relief is not applicable unless the affected party does the following:

18.2.1 uses due diligence to remove the Force Majeure as quickly as possible; and

18.2.2 provides the other party with prompt written notice of the cause and its anticipated effect.

18.3 The City may perform the awarded Bidder's functions itself or bid them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Award by the City.

18.4 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 of this Award. SUPPLIER WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AWARD AT THE TIME OF THE TERMINATION.

19.0 BID SAMPLE:

19.1 If requested by the City, bidders will be required to submit samples of the items proposed within seven (7) working days of such request. These samples must be representative of the material to be supplied. The samples will be used to determine if the proposed items meet the specifications stated herein. Bid Samples are to be delivered to the City of Houston, Wastewater Quality Control Laboratory Facility, 10500 Bellaire Blvd., Houston, Texas 77072.

19.2 Each sample must be labeled with Bidder's name, Bid Invitation Number, and Bid Form Item Number. Should bidder(s) have any problems with submission of these samples, please contact the Department at (832) 395-5787.

19.3 **If the Bidder fails to provide samples within the seven (7) working days, as required, the City may reject the bid and not consider it for further evaluation.**

19.4 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) calendar 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.

20.0 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 and one-half (2-1/2) hours in total plant time. The City will not be responsible for demurrage charges resulting from use of any City unloading equipment and/or accessories, in lieu of adequate carrier offloading equipment. 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. It is the carrier's responsibility to properly document all demurrage charges.

21.0 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 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.

22.0 SUPPLIER SUPPLY OF SAFETY TRAINING:

The successful Bidder shall agree to supply as a result of participation in the bidding process, formal safety training sessions to the user department at no additional cost to the City.. Such safety training sessions are to consist of the following:

22.1 A videotape, DVD, filmstrip, slide presentation or live trainer presentation on the general safe handling of the awarded bid material.

22.2 Coverage in such presentation of the main safety hazards and general information as covered in the material safety data sheet.

22.3 Coverage in such presentation of the general characteristics and behavior of the awarded bid material.

22.4 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 bid award, and during the first (1st) month of each twelve (12) month period thereafter. Should the awarded bid 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. The user department and the Supplier shall agree on a training schedule within 15 days of the bid award,

23.0 STOCKS AND WAREHOUSE FACILITIES:

23.1 In order to receive bid award consideration, the Bidder shall maintain sufficient stock(s) to fulfill normal City of Houston requirements as set forth herein. Bidder must demonstrate that he is able to secure all required product within a 24-hour period, and demonstrate access to sufficient production capacity to provide uninterrupted supply of liquid sodium bisulfite solution during periods of peak usage.

23.2 An inspection may be made to determine whether bidder actually has access to sufficient capacity and stock. Adequate stock inventory and production capacity shall be considered a factor in determining award. Adequate is defined as having, in stock, a storage capacity of two (2) weeks supply of liquid sodium bisulfite for each of the two (2) locations supplied.

23.3 Bidder must demonstrate he is able to secure all required product within a 48 hour period.

24.0 RELEASE AND INDEMNIFICATION:

24.1 RELEASE:

SUPPLIER RELEASES THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, OR DAMAGE TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH PERFORMANCE UNDER THIS AWARD, INCLUDING INJURY, DEATH, OR DAMAGE CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE.

24.2 INDEMNIFICATION:

SUPPLIER SHALL DEFEND AND INDEMNIFY THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") FOR ALL THIRD PARTY CLAIMS, LIABILITIES, FINES, AND EXPENSES (INCLUDING ALL DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, OR DAMAGE TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AWARD INCLUDING THOSE CAUSED BY:

(1) SUPPLIER'S ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

(2) THE CITY'S AND SUPPLIER'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER SUPPLIER IS IMMUNE FROM LIABILITY OR NOT; AND

(3) THE CITY'S AND SUPPLIER'S STRICT OR STATUTORY LIABILITY, WHETHER SUPPLIER IS IMMUNE FROM LIABILITY OR NOT.

SUPPLIER SHALL DEFEND AND INDEMNIFY THE CITY DURING THE TERM OF THIS AWARD AND FOR FOUR (4) YEARS AFTER THE AWARD TERMINATES. SUPPLIER'S INDEMNIFICATION IS LIMITED TO $500,000 PER OCCURRENCE. SUPPLIER SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

24.2.1 INDEMNIFICATION PROCEDURES:

(1) Notice of Claims. If the City or 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.

The 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 Supplier is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense Supplier may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Supplier shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Supplier must advise the City as to whether or not it will defend the claim. If 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 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. 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.

25.0 WORKER'S COMPENSATION INSURANCE:

On any City Award with a labor component or any Award where Supplier delivery people make deliveries to City sites, Worker's Compensation Insurance as shown in the Insurance Section is required.

26.0 INSURANCE:

26.1 If performance of this Award requires Supplier to provide labor in addition to supplies, labor and materials, the Supplier shall have insurance coverage and furnish certificates of insurance showing the City as an additional insured, in duplicate form, prior to the beginning of the Award. The City shall be named as an additional insured on all such policies except Worker's Compensation. **The issuer of any policy shall have a Certificate of Authority to transact insurance business in the State of Texas or 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 of Best's Key Rating Guide, Property-Casualty United States.** Comprehensive General Liability including Contractual Liability, Automobile Liability and Pollution Liability insurance shall be in at least the following amounts. Automobile Liability Insurance for autos furnished or used in the course of performance of this Award. Including Owned, Non-owned, and Hired Auto coverage.

(Any Auto coverage may be substituted for Owned, Non-owned and Hired Auto coverage.) If no autos are owned by Supplier, coverage may be limited to Non-owned and Hired Autos. If Owned Auto coverage cannot be purchased by Supplier, Scheduled Auto coverage may be substituted for Owned Auto coverage. EACH AUTO USED IN PERFORMANCE OF THIS AWARD MUST BE COVERED IN THE LIMITS SPECIFIED - $1,000,000.00 Combined Single Limit.

26.2 $1,000,000.00 per occurrence; $2,000,000.00 aggregate, per 12-month policy period. Worker's Compensation including Broad Form All States endorsement shall be in statutory amount.

26.3 All insurance policies required by this Award shall require on their face, or by endorsement, that the insurance carrier waive any rights of subrogation against the City, and that it shall give thirty (30) days written notice to the City before they may be cancelled. Within such thirty (30) day period Supplier, covenants that it will provide other suitable policies in lieu of those about to be cancelled so as to maintain in effect the coverage required under the provisions hereof. Failure or refusal of the Supplier to obtain and keep in force the above-required insurance coverage shall authorize the City, at its option, to terminate this Award at once.

26.4 ONLY UNALTERED ORIGINAL INSURANCE CERTIFICATES, EXCLUDING ANY ALTERATION AND INITIALS REGARDING CANCELLATION WHICH IS MADE TO MEET CITY REQUIREMENTS, AS ENDORSED BY THE UNDERWRITER ARE ACCEPTABLE. PHOTOCOPIES ARE UNACCEPTABLE.

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 City Purchasing Agent to terminate this Award according to its terms.

28.0 MINORITY AND WOMEN BUSINESS ENTERPRISES:

28.1 These provisions apply to goal-oriented Awards. A **goal-oriented** Award means any City solicitation awarded for the supply of goods or non-professional services of approximately $100,000.00 for which competitive bids are required by law and which the City Purchasing Agent has determined to have City of Houston Certified MWBE subcontracting potential.

28.2 The City of Houston, through Ordinance No. 84-1309 and Council Motion 86-2204, encourages the participation of Minority and Women Business Enterprises in the performance of City Awards. Pursuant to the aforesaid Ordinance and Council Motion, the City has classified the Award that will result from this bid as a Goal-Oriented Award and the recommended Supplier shall be required to make good faith efforts to subcontract at least **11%** of the total dollar amount of this award ("City of Houston Certified MWBE goal") to either Minority Business Enterprises, Women Business Enterprises, or both, unless otherwise stated in the Bid Form or Specifications. The City Purchasing Agent with the concurrence of the Affirmative Action Director reserves the right to adjust upwards or downwards the designated percentage goal.

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.

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 REJECTIONS:

31.1 Articles not in accordance with samples and specifications must be removed by the Supplier and at its own expense. All disputes concerning quality of supplies delivered under this invitation to bid will be determined by the City Purchasing Agent or designated representative.

31.2 All articles enumerated in the invitation to bid shall be subject to inspection on delivery by an officer designated for the purpose and of 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.

32.0 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 in the Invitation to Bid.

33.0 CHANGE ORDER

33.1 At any time during the Awarded Bid Term, 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.

33.2 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] countersigned by the City Controller on [Date of countersignature of the Award]

Subject to all terms and conditions of the Awarded Bid, 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]

33.3 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:

33.3.1 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 $25,000. A Change Order of more than $25,000 over the approved Award amount must be approved by the City Council.

33.3.2 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.

33.3.3 The Total of all Change Orders issued under this section may not increase the Original Award amount by more than 25%.

33.4 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 under this Award, 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.

33.5 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.

34.0 TERMINATION OF AWARD

34.1 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 under this Award and not previously paid.

34.2 By the City for Default by Supplier:

34.2.1 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 under the Award.

(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 under this Award as of such date and have no further obligation under the Award.

34.2.2 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.

34.3 By the Supplier for Default by City:

34.3.1 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.

34.3.2 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.

34.3.3 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 under this Award as of such date.

35.0 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

36.0 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, she 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.

37.0 SITE VISIT:

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

38.0 POST AWARD MEETING:

Once the contract has been approved by City Council, PW&E 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 contract administration.

39.1 CONTRACT COMPLIANCE:

1. The Department of Public Works & Engineering reserves the right to monitor this contract 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.