



# CITY OF HOUSTON INVITATION TO BID

Issued: March 10, 2023

## **BID OPENING**

Sealed bids (labeled with the company name, address, and bid number), in duplicate, will be received by the City Secretary of the City of Houston, in the City Hall Annex, Public Level, 900 Bagby Street, Houston, Texas 77002, until **10:30 a.m., Thursday, April 20, 2023**. All bids will be opened and publicly read in the City Council Chamber, City Hall Annex, Public Level, 900 Bagby Street at 11:00 AM on that date for the purchase of:

**DINNER TO HOME  
THE MAYOR'S OFFICE FOR HOMELESS INITIATIVES  
BID INVITATION NO.: P18-L32680  
NIGP CODE: 952-30, 961-38, 962-40  
MWBE Goal:0%**

## **BUYER**

Questions regarding this solicitation document should be addressed to Tanya De Lira at **832.393.8731** or e-mail to [tanya.delira@houstontx.gov](mailto:tanya.delira@houstontx.gov).

## **ELECTRONIC BIDDING**

To submit an electronic bid for the items in this procurement, you must enter information in the required fields of the E-bid document through the "PLACE BID" icon which allows the registered bidder to print, sign, and submit the original sealed bid to the address referenced above.

**PRE-BID TELECONFERENCE MEETING** March 20, 2023, @ 10:30 A.M. CT. The dial-in number is **+ 936-755-1521, Conference ID:** 143 661 824#. [Click here to join the meeting](#) It is the bidder's responsibility to ensure they have secured and thoroughly reviewed the solicitation documents prior to the Pre-Bid Conference. All Prospective Bidders are urged to participate.

## **ADDITIONAL INFORMATION AND SPECIFICATION CHANGES**

Requests for additional information and questions should be addressed no later than **March 24, 2023, at 2:00 P.M. CT**. The City of Houston (the City) shall provide a written response to all questions received in writing before the solicitation due date. Questions received from all Bidder(s) shall be answered and sent to all Bidder(s) who are listed as having obtained the ITB.

## **AMERICAN RESCUE PLAN ACT**

The American Rescue Plan Act (ARPA) is a Federal law that was signed into law on March 11, 2021 and was purposed to address the COVID-19 pandemic disaster relief on a national level. ARPA funds will be utilized for the services set out in this ITB. Vendor will be required to comply with all laws and regulations associated with these funds.

**Any revisions to be incorporated into this solicitation 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. Verbal responses will not otherwise alter the specifications, terms, and conditions as stated herein.**

## **IMPORTANT NOTICE ABOUT THE CITY'S EARLY PAYMENT DISCOUNT PROGRAM**

The City's standard payment term is to pay 30 days after receipt of invoice or receipt of goods or services, whichever is later, according to the requirements of the Texas Prompt Payment Act (Tx. Gov't Code, Ch. 2251). However, the City may pay in less than 30 days, at its option, in return for an early payment discount from Vendor.

**The place of the bid opening may be transferred and the date and time of the bid opening may be rescheduled in accordance with subsection 15-45(c) of the City of Houston Code of Ordinances.**

**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.**

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**\*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 an award, please submit the electronic bid form and the forms listed in Section A, Table 1, including the Official Signature Page, which must be signed by a company official authorized to bind the company A, Table 1, including the Official Signature Page, which must be signed by a company official authorized to bind the company.**

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**SECTION A  
OFFER**



**DINNER TO HOME  
THE MAYOR'S OFFICE FOR HOMELESS INITIATIVES  
BID INVITATION NO.: P18-L32680  
NIGP CODE: 952-30, 961-38, 962-40  
MWBE Goal:0%**

The undersigned Bidder hereby offers to contract with the City upon the terms and conditions stated in that certain **"Dinner to Home" for a one-year period with one (1) one-year option period to extend for the Mayor's Office for Homeless Initiatives,** which was distributed by the City together with the "Notice to Bidders" and is hereby incorporated herein by this reference (the "contract"). This offer is made at the prices stated on the electronic bid form. When issued by the City of Houston, 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 all such letters. By submitting a bid on this project, the Bidder shall be deemed to have received all Letters of Clarification and to have incorporated them into its bid.

The City may accept this bid offer by the issuance of a Purchase Order on or before the 180<sup>th</sup> day following the day this Official Bid Form is opened by the City. This offer shall be firm for 180 days after the bid opening or until the City Council awards the bid, whichever comes last, and this binding period may be extended by written agreement of the parties.

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

**BIDDING AND AWARD**

It is the intent of the City to award, based on overall low net 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 based on an individual item, combination of items or overall best value, as it is deemed in the best interest of the City.

If the City accepts the foregoing offer, this Bidder shall furnish all labor, supervision, materials, supplies, equipment, and tools necessary to provide the **Dinner to Home** program for the City in accordance with Section B Scope of Work/Specifications.

**Award shall be made only to a bidder that is responsive and responsible, as defined below:**

**Responsible:** A business entity or individual who has the integrity and reliability as well as the financial and technical capacity to perform the requirements of the solicitation and subsequent award.

**Responsive:** a Vendor that responds to all material requirements of any solicitation.

## **BID DISQUALIFICATION**

The City may disqualify a Bid if the Bidder: 1) improperly or illegibly completes information required by the Bid Documents; 2) fails to sign the Official Signature Page or improperly signs the Official Signature Page; 3) qualifies its Bid; or 4) improperly submits its Bid.

The apparent responsible and responsive Bidder shall present satisfactory evidence that Bidder has regularly engaged in providing the commodities or performing the services as proposed, and has the capital, labor, equipment, and material to deliver the required commodities or perform the work.

## **THIS IS A ONE-YEAR AWARD WITH ONE (1) ONE (1) YEAR OPTION TO EXTEND**

## **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.

## **PROFIT**

The Bid Form must also expressly include a breakdown identifying the dollar amount of profit in its fee attributable to each proposed cost or hourly rate, the annual project total, and the total for the contract term to enable compliance with 2 C.F.R. Section §200.324(b). The Bidder shall submit the proposed annual profit on ***Exhibit 1, Annual Profit Bid Form***. (Form provided in the electronic bidding system.)

## **COMPETITION INTENDED**

It is the City's intent that this ITB permits competition. It shall be the bidder's responsibility to advise the Buyer in writing if any language, requirement, specifications, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in the ITB to a single source. Such notification must be received by the Buyer no later than seven (7) days prior to the date set for bids to open.

## **TEXAS PUBLIC INFORMATION ACT**

All information submitted to the City is subject to the provisions of the Texas Public Information Act (TPIA), located in [Chapter 552 of the Texas Government Code](#). Proposers may mark any information submitted, including their financial information, as a confidential, trade secret, proprietary, or any other designation of choice. The City will notify any proposer should their information be requested under the TPIA and proposers will have an opportunity to assert their own arguments to the Texas Attorney General as to why their information should be excepted from public disclosure.

## **PROTESTS**

A protest shall comply with and be resolved according to the City of Houston Protest Administrative Policy 5-12 and rules adopted thereunder. For more information, go to: <http://www.houstontx.gov/adminpolicies/5-12.pdf>.

## **NO CONTACT PERIOD**

Neither bidder(s) nor any person acting on bidder(s)'s behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to any appointed or elected official or employee of the City, their families or staff members. All inquiries regarding the solicitation are to be directed to the designated City Representative identified on the first page of the solicitation. Upon issuance of the solicitation through the pre-award phase and up to the date the City Secretary publicly posts notice of any City Council agenda containing the applicable award, aside from bidder's formal response to the solicitation, through the pre-award phase, written requests for clarification during the period officially designated for such purpose by the City Representative, neither bidder(s) nor persons acting on their behalf shall communicate with any appointed or elected official or employee of the City, their families or staff through written or oral means in an attempt to persuade or influence the outcome of the award or to obtain or deliver information intended to or which could reasonably result in an advantage to any bidder. However, nothing in this paragraph shall prevent a bidder from making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action, or to a City Council committee convened to discuss a recommendation regarding the solicitation.

## **MINORITY AND WOMEN BUSINESS ENTERPRISES:**

It is the City's policy to ensure that Minority and Women Business Enterprises (MWBE) have full opportunity to compete for and participate in City Contracts. Vendor shall comply with the City's MWBE Program as set forth in Chapter 15, Article V of the City of Houston Code of Ordinances, as well as the Policies and Procedures of the Office of Business Opportunity (OBO) found on OBO's website at <https://www.houstontx.gov/obo/docsandforms/OBO-Policies-Procedures-2021-September.pdf>. Vendor shall make good faith efforts to award subcontracts and supply agreements in at least 0% of the value of the Agreement to certified MWBEs. If the Vendor is a certified MBE or WBE, Vendor may count its self-performance to meet a portion of the overall goal. Vendor acknowledges that they have reviewed the requirements for good faith efforts on file with OBO, available at <http://www.houstontx.gov/obo/docsandforms/goodfaithefforts.pdf>, and will comply with the set forth requirements.

Vendor shall maintain records of subcontracts and supply agreements with certified MWBEs, containing language required herein. In addition, Vendor shall submit all disputes that may arise with MWBE subVendors/supplies to mediation provided by OBO if other attempts do not result in a resolution.

Contracts funded in whole or in part by federal funding are also subject to the requirement to solicit minority businesses, women's business enterprises, and labor area surplus firms are used, when possible, located at 2 C.F.R. § 200.321. The list of Labor surplus firms is provided at the Department of Labor's website at <https://doleta.gov/programs/lisa.cfm>.

Regulation 2 C.F.R. § 200.321 requires, where subcontracting is permitted, Vendors to take the following affirmative steps:

- I. Solicitation Lists. The Vendor must place small and minority businesses and women's business enterprises on solicitation lists.
- II. Solicitations. The Vendor must assure that it solicits small and minority businesses and women's business enterprises whenever they are potential sources.
- III. Dividing Requirements. The Vendor must divide total requirements, *when economically feasible*, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
- IV. Delivery Schedules. The Vendor must establish delivery schedules, *where the requirement permits*, which encourage participation by small and minority businesses and women's business enterprises.
- V. Obtaining Assistance. The Vendor must use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- VI. Prime Vendor. Requiring the prime Vendor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (I) through (V) of this section.

The selected Vendor should clearly document the communication and outreach to the certified business. Documentation shall document email logs, phone logs, or similar records documenting the use of the above-identified sources of information about MWSBE firms, the efforts to contact them, and other efforts to meet the above requirements.

The Vendor must take these steps regardless of whether it has met the City's MWBE goal referenced above.

## **ZERO TOLERANCE FOR HUMAN TRAFFICKING**

The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Award for all purposes. Supplier has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of the Notice to Proceed. Supplier shall notify the Chief Procurement Officer of any information regarding possible violation by Supplier or its subVendors providing services or goods under this Award within seven (7) days of

Supplier becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

### **COMPLIANCE WITH CERTAIN STATE LAW REQUIREMENTS**

*Anti-Boycott of Israel.* Vendor certifies that Vendor is not currently engaged in and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

*Anti-Boycott of Energy Companies.* Vendor certifies that Vendor is not currently engaged in and agrees for the duration of this Agreement not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

*Anti-Boycott of Firearm Entities or Firearm Trade Associations.* Vendor certifies that Vendor does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or will not discriminate against a firearm entity or firearm trade association for the duration of this Agreement, as defined by Section 2274.001 of the Texas Government Code.

*Certification of No Business with Foreign Terrorist Organizations.* For purposes of Section 2252.152 of the Texas Government Code, Vendor certifies that, at the time of this Purchase Order neither Vendor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Vendor, is a company listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code as a company known to have contracts with or provide supplies to a foreign terrorist organization.

### **LOBBYING AND OTHER FORMS OF INFLUENCE PROHIBITED**

Neither Bidder(s) nor any person acting on Bidder(s)'s behalf shall attempt to influence the outcome of the award by the offer, presentation or promise of gratuities, favors, or anything of value to 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 solicitation. Upon issuance of the solicitation through the pre-award phase and up to the award, aside from Bidder's formal response to the solicitation, communications publicly made during the official pre-bid conference, written requests for clarification during the period officially designated for such purpose by the City Buyer, neither Bidder(s) nor persons acting on their behalf shall communicate with any 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 award or to obtain or deliver information.

### **DEBARMENT AND SUSPENSION**

By submitting a bid in response to this solicitation, Bidder certifies in accordance with Exhibit "H" that at the time of submission, Bidder is not on the Federal Government's list of suspended, ineligible, or debarred entities. In the event placement on the list between of Bidder's submission and time of award, the Bidder shall notify the Chief Procurement Officer. Failure to do so may result in default of the contract, if awarded.

### **PRESERVATION OF CONTRACTING INFORMATION**

The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this bid [or solicitation] and the Vendor or Vendor agrees that the contract can be terminated if the Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

### **ADDITIONAL REQUIREMENTS**

**Bidding forms, specifications, and all necessary information should be downloaded from the Internet at <https://purchasing.houstontx.gov> by registering and downloading this solicitation document. By registering and downloading this solicitation document, all updates to this solicitation document will be automatically forwarded via e-mail to any registered bidder.**

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

<b>TABLE 1 - REQUIRED FORMS</b>
Electronic Bid Form
Official Signature Page
Ownership Information Form
Conflict of Interest Questionnaire.doc
Reference Form
Annual Profit Bid Form (Exhibit 1)
Byrd Anti-Lobbying Certification (Exhibit 2)
Debarment and Suspension Certification (Exhibit 3)
Pay or Play – 1 Program Acknowledgment Form
Pay or Play – 2 Certification of Agreement Form
Pay or Play – 3 List of Participating SubVendors

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: Please use the above link to access the below required forms at the time of request.

<b>TABLE 2 - DOCUMENTS &amp; FORMS</b>
Drug Forms.doc
EEOC.doc
Certificate of Insurance & Applicable Endorsements

Questions concerning the bid should be submitted by e-mail to ***tanya.delira@houstontx.gov*** no later than **2:00 p.m., Wednesday, March 24, 2023.**

## SECTION B

### DINNER TO HOME MAYOR'S OFFICE FOR HOMELESS INITIATIVES BID INVITATION NO.: P18-L32680 NIGP CODE: 952-18, 952-30, 961-38, 962-40,

#### SCOPE OF SERVICES

##### 1.0 INTRODUCTION

The City of Houston is seeking an experienced provider to run its turnkey project – “Dinner to Home” program at a city-owned location adjacent to downtown. The selected Vendor should have an impressive track record of successfully working with individuals experiencing homelessness. Four (4) nights a week, the selected Vendor will provide dinner to 100 participants experiencing homelessness. The program is designed and shall be operated by the Vendor to attract individuals who may not normally engage with the housing system, by providing food that people want to eat in a respectful atmosphere with tables, chairs, trash receptacles, water, and portable restrooms.

##### 2.0 PURPOSE:

To prevent an increase in street homelessness, tools are needed to conduct outreach, and house vulnerable Houstonians experiencing homelessness. Therefore, the City established an appealing, Dinner to Home program to strategically entice individuals experiencing unsheltered homelessness to a safe, clean, well-managed, and appropriate location to foster connections and be assessed for housing.

##### 3.0 TERM

The Dinner to Home program will begin upon approval by City Council of the award and will have an initial one-year term with the option to extend for one additional year; however, the program may be terminated at the City's sole discretion with 30 days' written notice. If and when the option year is exercised, the Dinner to Home program shall begin and end on dates as may be set by the Special Assistant to the Mayor for Homeless Initiatives, Marc Eichenbaum (the “Coordinator”), or his designee and shall be provided in writing to the Vendor.

##### 4.0 VENDOR DUTIES

4.1 The selected Vendor will provide a hot meal to approximately 100 homeless participants at a city-owned location, located at 61 Reisner St. Houston Tx. 77002 four (4) days of the week (Sundays, Mondays, Wednesdays, and Fridays) with service from 7:00 pm – 8:00 pm.

There is no specific type of meal solution that must be provided. Options that include frozen meals will not be acceptable.

4.2 The Vendor shall adhere to guidelines for food preparation, transport, serving, handling, storage, and packaging in accordance with the [U.S. Food and Drug Administration Food Code](#) and all applicable local ordinances, including the [Charitable Food Services Ordinance](#) in Chapter 20, Article 5 of the City's Code of Ordinances, as well as all applicable guidelines established by the Houston Health Department.

4.3 The Vendor shall, at a minimum, conduct monthly onsite housing assessments via coordinated access on a set, recurring schedule.

4.4 The Vendor shall provide monthly reports detailing, at a minimum, the number of participants served at each feeding. On a periodic basis (coordinated with the City), the Vendor shall collect demographics and other client information, including information to identify participants via the Homeless Management Information System (HMIS) (e.g. name, birthdate, etc.).



- 4.5 If needed, and at the City's discretion, the Vendor shall be responsible for marketing the "Dinner to Home" program.
- 4.6 The Vendor shall coordinate and work with the City of Houston and Coalition for the Homeless. At the City's discretion, the Vendor shall accommodate other organizations who may provide supplemental onsite services during feedings.
- 4.7 The Vendor shall provide, at its own expense, all power tools, machines, and equipment necessary to perform work as specified. All equipment must be maintained in first-class condition to ensure safe and effective performance.
- 4.8 All work shall be performed in a professional manner and in accordance with the scope of services.
- 4.9 The Vendor shall provide all food and staffing, including onsite management, staff, and any needed volunteers to handle logistics, setup, food preparation/procurement, serving, and breakdown/cleanup.
- 4.10 The Vendor Shall provide all other assets/equipment including, but not limited to, tables and chairs (for participants' use), trash cans, storage container(s) with lock(s), feeding equipment, etc.

**5.0 EQUIPMENT AND SERVICES TO BE PROVIDED BY CITY**

The City shall provide access to the City-owned facility located at 61 Reisner St., Houston, Texas 77002, as well as electricity, lighting, trash dumpster(s), storage container(s), and portable restrooms for use in connection with the services to be provided under this Contract.

**6.0 CHANGES TO SERVICE**

- 6.1 In the event of an unforeseen emergency circumstance, the Vendor shall make contact by telephone. The Coordinator has the authority to approve an extra 15-minute delivery time provided the dinners are delivered, distributed, and completed within the scheduled time.
- 6.2 The Coordinator or his/her designee reserves the right to decrease or re-schedule dinners due to inclement weather or other unforeseen circumstances three (3) hours before the serving time.
- 6.3 All delivery documents must contain a minimum of 2 copies of the packing slip/receipt, must be typed or printed legibly, and shall contain the same information as the invoice.
- 6.4 Delivery tickets and packing slips shall contain the same information as the invoice.
- 6.5 All packing slips and delivery tickets must be signed by the receiving employee and must show his/her City employee number.

**7.0 SAFETY**

- 7.1 Within thirty (30) days after receipt of the Notice to Proceed (NTP), the Vendor shall submit an emergency procedures plan for the Coordinator's approval. This plan shall contain procedures in advance for all foreseeable emergency situations including but not limited to, customer safety, personal injuries, sickness, rowdiness, vandalism, intoxication, fire smoke, etc.
- 7.2 The Vendor shall immediately report all accidents and safety incidents by telephone and/or e-mail to the Coordinator or his/her designee. In addition, the Vendor shall report all accidents and safety incidents in writing to the Coordinator within four (4) hours of constructive knowledge of said accidents or incidents arising out of or in connection with the services hereunder, which result in injuries or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or damages are caused, the same shall be reported immediately by telephone to the Coordinator or his/her designee.
- 7.3 The report shall include a complete description of the accident or safety incident including an explanation of what occurred, the probable cause and the actions taken by all parties, and proposed follow-up action to minimize the reoccurrence of the accident or incident. The Vendor shall also make available its employees to be interviewed by investigators of the accident or incident and to testify in any legal proceedings.

## **8.0 FEDERAL REGULATIONS**

- 8.1 The Vendor must be registered with the US Federal Vendor Registration- System for Award Management (SAM). Please register at the following: <https://www.sam.gov/SAM/>.

## **9.0 LOCAL AND STATE REGULATIONS**

- 9.1 The Vendor must be qualified to do business in the State of Texas and must assure that it will take such actions necessary to remain so qualified.
- 9.2 The Vendor shall comply with all federal, state, and local health laws, ordinances, rules, and regulations applicable to its activities and obligations under this contract, including, but not limited to, the City's Charitable Food Services Ordinance in Chapter 20, Article V of the City's Code of Ordinances.

## **10.0 MINIMUM REQUIREMENTS**

- 10.1 The Vendor shall submit proof of registration with the The Way Home Organization.
- 10.2 The Vendor and/or its food supplier shall submit proof of certification as a Recognized Charitable Food Service Provider in good standing under Chapter 20, Article V of the City's Code of Ordinances and shall comply with all requirements and provisions thereunder.
- 10.3 The Vendor must demonstrate and submit experience working with individuals experiencing homelessness.
- 10.4 The Vendor must demonstrate and submit experience executing contracted programs.

## **11.0 METHOD OF PAYMENT**

- 11.1 For and in consideration of the services to be performed under this contract, the City agrees to pay the Vendor; the Vendor agrees to accept the proposed pricing in accordance with this Contract as full compensation for all work performed during the invoiced period.
- 11.2 The City's duty to pay money to the Vendor under the Dinner to Home program is limited in its entirety by the provisions of this section and to provide the location (City-owned property), electricity, lighting, trash dumpster(s), storage container(s), and portable restrooms.
- 11.3 An Original invoice shall be submitted for payment on a monthly basis to both the address provided on the purchase order as well as to the following address:

City of Houston  
Mayor's Office for Homeless Initiatives  
Accounts Payable  
Attention: Marc Eichenbaum  
901 Bagby Street  
Houston, Texas 77002  
***marc.eichenbaum@houstontx.gov***  
Ph: 832.393.0959

## **12.0 ADDITION & DELETION**

- 12.1 The City, by written notice from the Coordinator and the City Chief Procurement Officer to the Vendor, at any time during the term of this contract, 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 contract shall be in accordance with the contract specification/scope of services, and the charges or rates for items added shall be the same as specified in the fee schedule. In the event

that the additional equipment, supplies, locations, and/or services are not identical to the item(s) already under contract, the charges therefore will then be the Vendor's normal and customary charges or rates for the equipment, supplies, and/or services classified in the fee schedule.

**13.0 ESTIMATED QUANTITIES NOT GUARANTEED**

13.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any quantity of services during the term of this Contract. The quantities may vary depending upon the actual needs of the Department. The quantities specified herein are good faith estimates of usage during the term of this Contract. Therefore, the City shall not be liable for any contractual agreements/obligations the Vendor enters into based on the City purchasing all the quantities specified herein.

**14.0 WARRANTY OF SERVICES**

14.1 *Definitions:* "Acceptance" as used in this clause shall mean the act of an authorized representative of the City by which the City assumes for itself, approval of specific services as a partial or complete performance of the contract.

14.2 "Correction" as used in this clause shall mean the elimination of a defect.

14.3 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Vendor shall warrant that all services performed under this contract shall, at the time of acceptance, be free from defects in workmanship and shall conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Vendor within a one (1) year period from the date of acceptance by the City. This notice shall state either a) that the Vendor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or b) that the City does not require correction or re-performance.

14.4 If the Vendor is required to correct or re-perform, it shall be at no cost to the City. Any services corrected or re-performed by the Vendor shall also be subject to this clause to the same extent as work initially performed. If the Vendor fails or refuses to correct or re-perform, the City shall, by contract or otherwise, correct or replace with similar services and shall charge to the Vendor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.

14.5 If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

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**EXHIBIT 1**

**Annual Profit Bid Form**

(Form provided in the electronic bidding system)

The Annual Profit Bid Form must also expressly include a breakdown identifying the dollar amount of profit in its fee attributable to each proposed costs or hourly rate, the annual project total, and total for the contract term (to enable compliance with 2 C.F.R. Section §200.324(b)).

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## EXHIBIT 2

### BYRD ANTI-LOBBYING CERTIFICATION

#### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

### EXHIBIT 3

#### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – LOWER-TIER COVERED TRANSACTIONS**

This Agreement is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Vendor is required to confirm that none of the Vendor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

#### **INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this bid, the Vendor (referred to herein as the “prospective lower tier participant”) is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this bid is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, bid, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this bid is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this bid that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this bid that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in

addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AN VOLUNTARY EXCLUSION — LOWER TIER COVERED TRANSACTIONS

- (1) The prospective lower tier participant certifies, by submission of this bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

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## EXHIBIT 4

### Equal Opportunity Clause

The applicant/Consultant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this Agreement, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(4) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Consultant will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government Agreements or federally assisted construction Agreements in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies



invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontract or Vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subVendor or Vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant/Consultant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The applicant/Consultant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Consultant and subVendors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant/ Consultant further agrees that it will refrain from entering into any contract or contract modification subject to [Executive Order 11246](#) of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Consultant and subVendors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

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**EXHIBIT 5**

**Sample Contract**

*(To be uploaded to the e-bid website at a later date)*