

CITY OF HOUSTON INVITATION TO BID (ITB)



Issued: October 9, 2020

Bid Opening

Sealed bids, in duplicate, will be received by the City Secretary of the City of Houston, in the City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002 until **10:30 a.m. Thursday, November 12, 2020**, and all bids will be opened and publicly read in the City Council Chamber at 11:00 A.M. on that date for the purchase of:

**ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES
FOR THE
FLEET MANAGEMENT DEPARTMENT
BID INVITATION NO. S91-S29630
NIGP CODE: 936-32, 060-66 & 072-30/MWBE: 0%**

Buyer

Ezechukwu Iwundu is the Buyer for this solicitation and he may be reached at 832-393-8752. Any questions regarding this solicitation should be submitted via e-mail at ezechukwu.iwundu@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

The City of Houston's Strategic Procurement Division has decided to suspend ALL onsite Pre-Bid Conferences until further notice. Therefore, there will be a teleconference for this Pre-Bid on October 21, 2020 at 2:00 p.m. The dial in number is **936-755-1521** Conference ID: **183 287 318 #**. 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.

Additional Information and Specification Changes

Requests for additional information and questions should be addressed no later than October 29, 2020 at 4:00 P.M. CST. The City of Houston (the City) shall provide a written response to all questions received in writing before the aforementioned due date for questions. Questions received from all Bidder(s) shall be answered and sent to all Bidder(s) who are listed as having obtained the ITB. Bidder(s) shall be notified in writing of any changes in the specifications contained in this ITB.

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.

INVITATION TO BID FOR ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES FOR THE FLEET MANAGEMENT DEPARTMENT, CONTINUED:

Bidding forms, specifications and all necessary information should be downloaded from the Internet at <http://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.

The place of the bid opening may be transferred in accordance with Paragraph Section 15-45 of The Code of Ordinances, Houston, Texas. The bid opening meeting may be rescheduled in accordance with Paragraph (c) of said Section 15-45.

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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**SECTION A.
OFFICIAL BID FORM**



**ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES
FOR THE
FLEET MANAGEMENT DEPARTMENT
BID INVITATION NO. S91-S29630**

Honorable Mayor and City Council Members:

The undersigned hereby proposes to furnish and deliver Rosenbauer Replacement Parts and Repair Services, **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 Conditions. 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 bid must be signed by an individual(s) legally authorized to bind the bidder(s) and the bidder shall hold the pricing contained therein for a minimum of 180 days.

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 award by line item.

BIDDING AND AWARD

It is the intent of the City to award, on the basis of 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 on the basis of individual item, combination of items or overall best bid, as it is deemed in the best interest of the City. Once the award is made, a bid tabulation for this procurement may be posted and made publicly available on the Strategic Procurement Division's website.

THIS IS A THIRTY-SIX (36) MONTH AWARD WITH TWO (2) ONE (1) YEAR OPTIONS 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.

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.

SECTION A. OFFICIAL BID FORM FOR ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES FOR THE FLEET MANAGEMENT DEPARTMENT, CONTINUED:

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.

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.

ANTI-BOYCOTT OF ISRAEL

Bidder certifies that Bidder is not currently engaged in and agrees for the duration of this Award not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

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 subcontractors 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.

HIRE HOUSTON FIRST:

THIS PROCUREMENT IS SUBJECT TO THE HIRE HOUSTON FIRST PROGRAM, WHICH GIVES A PREFERENCE TO CERTAIN LOCAL BIDDERS IN AWARD OF THE PROCUREMENT.

SECTION A. OFFICIAL BID FORM FOR ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES FOR THE FLEET MANAGEMENT DEPARTMENT, CONTINUED:

HIRE HOUSTON FIRST (CONTINUED):

Designation as a City Business or Local Business

In an effort to promote economic opportunity for Houston businesses and to support job creation, the Hire Houston First Program grants the City the ability to give a preference to eligible local companies, as long as their pricing is competitive. To be eligible for the preference, a company must be designated as a **City Business (CB) or Local Business (LB)** under the Hire Houston First Program **prior** to submittal of bid. Bidders must provide *Declaration of Hire Houston First Designation* form at bid time.

To complete an application for the Hire Houston First program, visit <http://www.houstontx.gov/obo/hirehoustonfirst.html>. Applications can be submitted to the City of Houston Office of Business Opportunity via the online application system, by e-mail to HIREHOUSTONFIRST@houstontx.gov, by fax to 832-393-0646, or hand delivered.

Note: Participation in the Hire Houston First program is not required to bid on City of Houston awards.

Award of a Procurement of \$100,000 or More for Purchase of Goods:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE CITY BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN **3%** OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH AWARD NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A CITY BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER.

Award of Procurement under \$100,000 for Purchase of Goods:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE CITY BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN **5%** OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH AWARD NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A CITY BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE CITY BUSINESS IS LESS THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN **5%** OF THE LOWEST BID RECEIVED, OR
- IF THE BID OF THE CITY BUSINESS IS MORE THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN **3%** OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH AWARD NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A CITY BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER.

SECTION A. OFFICIAL BID FORM FOR ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES FOR THE FLEET MANAGEMENT DEPARTMENT, CONTINUED:

PRESERVATION OF CONTRACTING INFORMATION

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

Documents/forms must be downloaded from the City’s Website <http://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
Ownership Information Form
Bidders Attachments Supply
Location of Bidders Inventory
Early Payment Discount Form

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
Certificate of Insurance
Formal Instructions for Bid Terms
EEOC
Sample Insurance Endorsements
Criminal Justice Information Services Addendum (CJIS)

SECTION B.
CITY OF HOUSTON
TECHNICAL SPECIFICATIONS
FOR
ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES
FOR THE
FLEET MANAGEMENT DEPARTMENT

1.0 ORIGINAL EQUIPMENT MANUFACTURER (OEM) PARTS AND REPAIR SERVICES:

- 1.1 The specification calls for genuine original equipment manufacturer (OEM) Rosenbauer replacement parts and certified OEM Rosenbauer technicians completing repair and warranty work.
- 1.2 All repairs shall be accomplished in strict accordance with the OEM specifications. The supplier shall be responsible for damages caused to the vehicle due to the mechanic's negligence, and/or improper service techniques and/or installation. The City may exercise the option to perform repairs and bill the supplier for reimbursement.
- 1.3 The Fleet Management Department (FMD) reserves the right to supply such parts from existing inventory when in its best interest.
- 1.4 The supplier shall provide all necessary labor, parts, shop supplies, freight, materials, and waste disposal fees to repair the engines.
- 1.5 The Fleet Management Department will be responsible for transportation of equipment to supplier's location.

2.0 VEHICLE STATUS REPORT:

The supplier shall email a status report to the Fleet Operations Section of the FMD, ATTN: **FMD Department Designee** Ricky Mireles at ricky.mireles@houstontx.gov, detailing the status of all vehicles in its possession twice weekly with report being submitted no later than 1:00PM on each Wednesday and Friday.

3.0 REPAIR TECHNICIANS:

The Supplier's repair technicians must be trained and certified by the manufacturer in the repair of all types of Rosenbauer engines. The technicians should also be Master Automotive Service Excellence (ASE) certified or be a graduate of an accredited automotive technical school or college and have at least three (3) years of maintenance experience on this type of equipment. The Supplier shall be able to provide proof of said certification to the City if requested. The Supplier is responsible for the technician's certifications and must provide proof to the City within five (5) business days from receipt of a written request from the City.

4.0 REPLACEMENT PARTS:

The Supplier shall supply new OEM parts or its equivalent; however, the department reserves the right to supply parts when in the best interest of the department. Use of or equal parts without approval by the department will not be accepted by the City. Therefore, if unapproved or equal parts are used to repair the equipment, the Supplier shall be required to replace those parts with OEM parts at no additional cost to the City. Use of rebuilt or remanufactured parts using OEM substitutes or equal parts without approval from the corresponding department will require the Supplier to redo the job using OEM parts at its own expense.

5.0 VEHICLE/EQUIPMENT TRANSPORT:

The Supplier shall be responsible for the transport of City of Houston vehicles/equipment from City facilities to Supplier owned maintenance facilities and the City of Houston shall bare the expense of transport.

6.0 REPAIR FACILITY AND STORAGE OF EQUIPMENT/VEHICLES:

- 6.1 The Supplier facility(s) must be of adequate size to support the repair of City vehicles/equipment related to this award. The equipment must be stored in a secured storage area or a building and must be locked/secured at all times when not being serviced. The Supplier shall be responsible for replacing all missing/damaged apparatus from the equipment/vehicles. The City will replace any apparatus, including, but not limited to, light bars, radios, etc., missing from the vehicles and bill the supplier for same.
- 6.2 The FMD/Outside Service Group (OSG) may/can give preference to suppliers that have multiple repair facilities. The repair facility could be in-State or out-of-State, depending on types of repairs necessary.

7.0 REPAIR ESTIMATE/PROPOSAL:

- 7.1 The Supplier will complete a repair estimate within five (5) business days after receiving the vehicle and forward it to the Outside Service Section Manager of the FMD for approval. All collision repair estimates must be sent to the FMD Outside Service Section Manager.
- 7.2 For each piece of equipment requiring repair, the Supplier shall develop an estimate of the extent of the repairs and a detailed listing of parts and labor associated with the repair. The estimate shall include the repair labor hours per task, quantity, and material cost dollars. The Supplier will then provide (within five (5) working days from receipt of malfunctioning equipment) to the FMD/OSG a written estimate of the repair. The Supplier's estimate/proposal shall include the repair labor hours based on the award labor rate. In order to determine the total repair estimate/proposal amount, the Supplier shall apply the labor rate in the award to the estimated labor hours and add the material cost. The Supplier's repair proposal will then be evaluated to determine the reasonableness of the Supplier's proposal. If the Supplier's proposal is determined to be reasonable, the Supplier shall be given written authorization to proceed with the repair by the FMD/OSG, no work may begin until formally approved. Any additional work beyond the original proposal amount shall not be performed without prior approval of the FMD/OSG. If the additional work is authorized, a supplemental work order or letter of authorization will be provided to the Supplier by the FMD/OSG.

8.0 DIAGNOSTIC SOFTWARE:

The Supplier shall provide to the Parts Department Manager software license subscription(s) on annual basis for all Rosenbauer Air Fire Rescue units. The City reserves the right to purchase a minimum of two (2) licenses and a maximum of four (4) subscriptions of the Set Rosenbauer Service Tool for Customers. The license shall include any upgrades, patches, or modifications needed within the calendar year immediately following purchase.

9.0 COMPLETION OF REPAIRS/LIQUIDATED DAMAGES:

The Supplier shall provide to the Outside Service Section Manager, in writing, the completion date for the approved repairs. The Supplier shall state in the repair estimate the total turnaround time for the repairs after authorization to proceed is given by FMD/OSG. All repairs are to be completed within thirty (30) working days with a maximum of forty-five (45) working days. The FMD/OSG must approve any repairs requiring longer than forty-five (45) working days. Repairs exceeding the completion date will be subject to a \$50.00 liquidated damages charge for each day the Supplier exceeds the specified completion date. This amount shall be deducted from the Supplier's invoice for services rendered. In cases where the completion date has been exceeded, the Supplier may present in writing to the Outside Service Section Manager or designee, justification for the delay. If the delay is caused by circumstances beyond the control of the Supplier, the department may at the discretion of the Outside Service Section Manager or designee chose to waive or adjust the \$50.00 per day liquidated damages.

10.0 DEFECTIVE PARTS, WORKMANSHIP, WARRANTY REPAIRS/LIQUIDATED DAMAGES:

Warranty repairs shall be completed within five (5) business days after the vehicle has been returned to the Supplier. Warranty repairs exceeding five (5) business days will be subjected to a \$50.00 liquidated damage charge per day exceeding the time limit. This amount shall be deducted from the Supplier's invoice for future services rendered. In cases where the completion date has exceeded the designated time limit, the Supplier may present in writing to the Outside Service Section Manager, justification for the delay. If the delay is caused by circumstances beyond the control of the Supplier, the department may at the discretion of the Outside Service Section Manager, waive or adjust the liquidated damages charge.

11.0 EQUIPMENT ACCEPTANCE:

Equipment repairs will be inspected at the time the equipment is delivered for workmanship, appearance, proper functioning of all equipment and systems, and conformance to all other requirements of this specification. In the event deficiencies are detected, the equipment will be rejected, and the Supplier shall be required to make the necessary repairs, adjustments, or replacements. Payment will not be made until the corrective action is completed and equipment is re-inspected and accepted. If the equipment is accepted after delivery and rejected because of deficiencies, it shall be the Supplier's responsibility to make the necessary corrections per the warranty stipulations. It may be necessary to travel to the Vendor facility to accept repaired equipment. This could be in-State or out-of-State.

12.0 ESTIMATED QUANTITIES NOT GUARANTEED:

The estimated dollar amounts for repairs and/or parts and materials specified herein are not a guarantee, as the City does not guarantee any particular amount of expenditures for services and/or parts and materials performed during the term of this award. The quantities may vary depending upon the actual needs of the user department. The quantities specified herein are good faith estimates of usage during the term of this award. Therefore, the City shall not be liable for any contractual agreements/obligations the Supplier enters into based on the City purchasing all the quantities specified herein.

13.0 WARRANTY OF SERVICES:

- 13.1 Definitions: "Acceptance" as used in this clause, means the act of an authorized representative of the City by which the City assumes for itself, approval of specific services, as partial or complete performance of the award. "Correction" as used in this clause, means the elimination of a defect.
- 13.2 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Supplier warrants that all services performed under this award will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this award.
- 13.3 If the Supplier is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Supplier shall be subject to this clause to the same extent as work initially performed. If the supplier fails or refuses to correct or re-perform, the City may correct or replace with similar services and charge to the Supplier the cost incurred by the City or make an equitable adjustment in the award price.

14.0 INVOICING:

- 14.1 The Supplier shall submit for payment in triplicate (one original and two copies) invoices that are on the Supplier's company stationery with original signed by an authorized agent of the company. The invoice number shall not be duplicated during the awarded term. On invoices where there is a charge for parts/material, the invoice will reflect the City's cost per item. including any markup or discount.
- 14.2 Invoice will reflect the following:
 - 14.2.1 City purchase order number
 - 14.2.2 Unit number
 - 14.2.3 Work order number
 - 14.2.4 Mileage
 - 14.2.5 Hour meter reading
- 14.3 The invoice shall include the address of the facility where services were performed.
- 14.4 The invoice shall include a beginning and ending date of the service.
- 14.5 The invoice shall include a detailed description of the service rendered.
- 14.6 The invoice shall include an itemized listing of new equipment, part numbers, materials or components installed or repaired. If equipment and/or parts are reconditioned, the cost to recondition parts must be listed.
- 14.7 Itemized labor hours and rates.
- 14.8 Subtotal costs for parts and labor listed separately.
- 14.9 Total invoice cost.
- 14.10 A copy of the detailed job estimate, with approval signature of the user department's authorized representative authorizing commencement of work.
- 14.11 The approval signature and City employee number of the Outside Service Section Manager or designee.
- 14.12 Invoices submitted for services performed resulting from extra work/services shall require copies of the user department's representative written request attached to the original and each of the two (2) invoice copies.

15.0 SITE VISITS:

When deemed necessary, an inspection may be made by the department to determine whether a bidder has a facility at the location they have listed in the bid document.

16.0 POST AWARD MEETING:

Once the award has been approved by City Council, FMD reserves the right to schedule a Post Award meeting with the successful Supplier. This meeting will include FMD's Division Manager, Award Administrator, Operation Managers, and Accounts Payable personnel. This meeting will cover procurement requirements, supplier invoicing, supplier payment, and other matters related to administering the award.

17.0 AWARD COMPLIANCE:

- 17.1 The Fleet Management Department reserves the right to monitor this award for compliance to ensure legal obligations are fulfilled and that acceptable level of service is provided.
- 17.2 Monitoring may take the form of but shall not necessarily be limited to:
 - 17.2.1 Inspecting, testing, and/or sampling of goods delivered or to be delivered
 - 17.2.2 Review of deliveries received for accuracy and timelines
 - 17.2.3 Review of Supplier's invoices for accuracy
- 17.3 The responsibility for monitoring compliance rests with the Award Compliance Section, Management Support Branch of the Office of the Director, and the Award Administrator of the FMD.

18.0 PRICE ADJUSTMENT:

18.1 Direct Cost:

In this section means Supplier's cost from the manufacturer of any item or if Supplier is the manufacturer, the cost of raw materials required to manufacture the item, plus costs of transportation from manufacturer to Supplier and Supplier to the City.

18.2 Price Decreases:

- 18.2.1 If the Supplier's Direct Cost **decreases** at any time during the full term of this award, Supplier shall **immediately** pass the decrease on to the City and lower its prices by the amount of the decrease in Direct Cost.
- 18.2.2 Supplier shall notify the Chief Procurement Officer of price decreases in the same way as for price increases set out below. The price decrease shall become effective upon Chief Procurement Officer's receipt of Supplier's notice.

18.3 Price Increases:

- 18.3.1 Suppliers may request a price increase after **12 months** from the bid opening date of the bid received by the City Secretary of the City of Houston. Subsequent price increases may be requested **12 months** from the date of the previous approved price increase. The amount of the first increase shall not exceed actual documented increase in Supplier's Direct Cost and shall not ever be more than **10%** above the previous bid price. The amount of the subsequent price increase shall also not exceed this percentage.
- 18.3.2 To request a price increase, Supplier must submit a letter setting the amount of the increase, along with an itemized list of any increased prices, showing the Supplier's current price, revised price, the actual dollar difference and the percentage of the price increase by line item. Documentation from the Supplier's supplier(s) showing the actual dollar increase to the Supplier must accompany this request. Such documentation from the Supplier's supplier must clearly show the dollar increase incurred by the Supplier on the applicable solicitation per item bid. The letter and documentation shall be sent to the following address:

**Chief Procurement Officer
City of Houston
P.O. Box 1562
Houston, Texas 77251**

18.0 PRICE ADJUSTMENT (CONTINUED):

18.3 Price Increases (Continued):

18.3.3 If the Chief Procurement Officer approves the price increase, he or she shall notify Supplier in writing; no price increase will be effective until Supplier receives this notice. If the Chief Procurement Officer does not approve Supplier's price increase, Supplier may terminate its performance upon **sixty (60) days** advance written notice to the Chief Procurement Officer. Termination of performance is Supplier's only remedy if the Chief Procurement Officer does not approve the price increase.

18.3.4 If, at any time after approving a price increase, the Chief Procurement Officer determines that the City can obtain the same item at a lower price from a different source without violating the State bid laws, the City may then purchase the item from the lower price source without any obligation to the Supplier.

NOTE: SUBMIT BIDDER'S QUESTIONNAIRE WITH BID RESPONSE

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 three (3) contracts, as a prime supplier, for delivering Rosenbauer replacement parts and repair services for the Fleet Management Department 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 within five (5) working days from receipt of a written request from the City 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 Rosenbauer replacement parts and repair services for the Fleet Management Department.**

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: _____

SECTION C
CITY OF HOUSTON
GENERAL TERMS AND CONDITIONS
FOR
ROSENBAUER REPLACEMENT PARTS AND REPAIR SERVICES
FOR THE
FLEET MANAGEMENT DEPARTMENT

1.0 TERM OF AWARD:

- 1.1 The term of the award shall be for a **thirty-six (36)** 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 Procurement 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 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.
- 1.3 Upon written notice to the Supplier from the Chief Procurement Officer or his designee, the term of this award shall be extended on the same terms and conditions on a month-to-month basis until (1) approval of a new award; or (2) spending authority has been reached, whichever occurs first.

2.0 OPTIONAL EXTENSION:

Upon expiration of the initial term, and as long as the City has sufficient spending authority remaining, this award will be automatically renewed for two (2) successive one (1) year terms under the same terms and conditions. If the Director/Chief of the City Department elects not to renew this award, the City Chief Procurement Officer shall notify the Supplier in writing of non-renewal at least thirty (30) calendar days before the expiration date of the current term.

3.0 PROMPT PAYMENT OF SUBSUPPLIERS:

Supplier shall make timely payments to all persons and entities supplying labor, materials or equipment for the performance of this award. **SUPPLIER SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF SUPPLIER'S FAILURE TO MAKE THESE PAYMENTS.**

4.0 LABOR RATE ESCALATION CLAUSE:

No labor rate increase shall be allowed during the term of the award. Therefore, the labor rate offered for each year bid shall be firm for the term of the award.

5.0 INTER-LOCAL AGREEMENTS:

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

6.0 LOCAL PRESENCE/SOURCE:

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

7.0 INVOICING:

7.1 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 to which the merchandise was delivered and the City of Houston Purchase Order Number.

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

7.3 Mail invoices to the Accounts Payable Section of the department and to the address, as noted on individual purchase orders.

City of Houston Finance Department
Attn: Accounts Payable
P.O. Box 3685
Houston, Texas 77251-3685

or

finaccountspayable@houstontx.gov

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

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

8.0 PAYMENT:

8.1 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 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

8.2 A vendor 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.

8.3 If the City fails to make a payment according to the early payment schedule above but does make the 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 City business is not expected to be conducted, payment may be made on the following business day.

9.0 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 is found to be contaminated or contain heavy metal products, it will be the responsibility of the Supplier to remove and replace the contaminated product at their expense and at no cost to the City. The City has the option to solicit the removal of any contaminated material and charge back the Supplier any and all costs involved.

10.0 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 subcontractors and/or suppliers supplying goods and/or services under the prime award insofar as those books and records relate to performance under the prime award.
- 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 this award. Supplier shall keep its books and records available for this purpose for at least three (3) years after this award terminates. This provision does not affect the applicable statute of limitations.

11.0 SILENCE OF SPECIFICATIONS:

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

12.0 SPECIFIED EQUIPMENT OR EQUIVALENT:

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

13.0 DELIVERIES:

- 13.1 The Supplier agrees to make deliveries only upon receipt of duly signed and approved Purchase Orders issued by the City's Chief Procurement Officer or designee. Delivery made without such Purchase Order shall be at Supplier's risk and shall leave the City the option of canceling any award implied or expressed herein.
- 13.2 Unless otherwise stated in the Bid Form or Specifications, deliveries must consist only of new and unused merchandise.
- 13.3 Full tare must be allowed, and no charges made for packages.

13.0 DELIVERIES (CONTINUED):

- 13.4 In the event that the deliveries of the supplies covered in the solicitation are not made within the number of days specified, or in the event that the supplies delivered are rejected and are not removed and replaced within the number of days specified in the official notice of rejection, the City reserves the right to terminate. The defaulting Supplier will be deemed non-responsible and will be disqualified from bidding on the solicitation if it is re-let by the City within ninety (90) days of such termination.
- 13.5 The Bidder must demonstrate its ability to secure and deliver any item within five (5) working days. Forty-eight (48) hour delivery services may be required in some instances; therefore, the Bidder must be able to provide such service.

14.0 SHIPPING TERMS:

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

15.0 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.

16.0 RESTOCKING (EXCHANGES AND RETURNS):

There will be no restocking charge to the City for return or exchange of any item purchased under the terms of this award. If the City wishes to return items purchased under this award, the Supplier agrees to exchange, these items for other items, with no additional charge incurred. Items must be returned to Supplier within one hundred twenty (120) days from date of delivery. If there is a difference in price in the items exchanged, the Supplier shall invoice the City for increase price or provide the City with a credit or cash refund for any decrease in price. On items returned, a credit or cash refund will be issued by the Supplier to the City. This return and exchange option shall extend for 120 days (120) days following the expiration date of the award. All items returned by the City must be unused and in the same merchantable condition as when received. **Items that are special ordered and/or stocked by the Supplier at the specific request of the City may be returned only upon approval of the Supplier.**

17.0 ADDITIONS & DELETIONS:

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

18.0 FORCE MAJEURE:

- 18.1 Timely performance by both parties is essential to the award. However, neither party is liable for delays or other failures to perform its obligations to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.
- 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

18.0 FORCE MAJEURE (CONTINUED):

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

18.3 The City may perform or solicit functions itself during periods of Force Majeure. Such performance does not constitute a default or breach of this award by the City.

18.4 If the Force Majeure continues for more than 30 days, the Chief Procurement Officer or Director upon written authorization by the Chief Procurement Officer may terminate this award by giving 30 days' written notice to Supplier. This termination is not a default or breach. SUPPLIER WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE AT THE TIME OF THE TERMINATION.

19.0 SAMPLES:

19.1 If requested by the City, the two (2) apparent low Bidders will be required to submit samples of the items proposed within seven (7) calendar days of such request. The samples will be used to determine if the proposed items meet the specifications stated herein.

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

19.3 These samples, if not subject to destructive testing, will be returned to the supplying bidder. A notice will be mailed to the bidder when samples are ready to be released by the City. Bidder 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 WARRANTY:

A minimum warranty of twelve (12) months from Supplier and the manufacturer's warranty will be furnished on materials and workmanship shall be provided. The warranty period shall begin the day the City officially accepts the item. Any warranty work is to be completed within five (5) working days after receipt of item.

21.0 RELEASE:

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

22.0 INDEMNIFICATION:

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

(1) PRIME SUPPLIER'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', SUPPLIERS', OR SUBSUPPLIERS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "PRIME SUPPLIER") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

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

22.0 INDEMNIFICATION (CONTINUED):

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

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

22.3 INDEMNIFICATION PROCEDURES:

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

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

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

23.0 WORKER'S COMPENSATION INSURANCE:

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

24.0 INSURANCE:

- 24.1 If performance of this award requires Supplier to provide labor in addition to supplies, labor and materials, the Supplier shall have and maintain in effect 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 and Automobile 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.
- 24.2 Worker's Compensation including Broad Form All States endorsement shall be in statutory amount.
- 24.3 All insurance policies required by this award shall require by endorsement that the insurance carrier waive any rights of subrogation against the City, Supplier shall give 30 days written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. 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.
- 24.4 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.
- 24.5 All certificates of insurance submitted by Supplier shall be accompanied by endorsements for additional insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and waivers of subrogation in favor of the City for Commercial General Liability, Automobile Liability, and Worker's Compensation/Employers' Liability policies. For a list of pre-approved endorsement, forms see http://purchasing.houstontx.gov/forms/Sample_Insurance_Endorsements.pdf. The Director will consider all other forms on a case-by-case basis.

25.0 SUCCESSORS AND ASSIGNMENTS:

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

26.0 MINORITY AND WOMEN BUSINESS ENTERPRISES:

- 26.1 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. Contractor shall comply with the City's MWBE Program as set forth in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts and supply agreements in at least **0%** of the value of the Agreement to certified MWBEs. Contractor acknowledges that they have reviewed the requirements for good faith efforts on file with the Office of Business Opportunity (OBO), available at <http://www.houstontx.gov/obo/docsandforms/goodfaithefforts.pdf>, and will comply with the set forth requirements.

26.0 MINORITY AND WOMEN BUSINESS ENTERPRISES (CONTINUED):

26.2 Supplier shall maintain records of subawards and supply agreements with certified MWBEs, containing language required herein. In addition, Supplier shall submit all disputes that may arise with MWBE subcontractors/supplies to mediation provided by the City, if directed to do so by the Office of Business Opportunity.

27.0 TAXES:

27.1 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 Chief Procurement Officer, if satisfied as to the facts, will approve or issue the necessary certificates.

27.2 The tax exemption numbers are 74-600-1164 (Federal) and 1-74-600-1164-0 and (State/City).

28.0 AWARD:

28.1 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.

28.2 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.

29.0 REJECTIONS:

29.1 Articles not in accordance with samples and specifications must be removed by the Supplier and at his expense. All disputes concerning quality of supplies delivered under this invitation to bid will be determined by the Chief Procurement Officer or designated representative.

29.2 All articles enumerated in the invitation to bid shall be subject to inspection on delivery by an officer designated for the purpose and if found inferior to the quality called for, or not equal in value to the Department's samples, or deficient in weight, measurements, workmanship or otherwise, this fact shall be certified to the Chief Procurement Officer who shall have the right to reject the whole or any part of the same.

30.0 BRAND NAME

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

31.0 CHANGE ORDER

31.1 At any time during the term of the award, the Chief Procurement Officer or Director upon written authorization by the Chief Procurement Officer 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.

31.0 CHANGE ORDER (CONTINUED):

- 31.2 The Chief Procurement Officer or Director upon written authorization by the Chief Procurement Officer will issue the Change Order in substantially the following form:

CHANGE ORDER

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

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

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

Signed:

[Signature of Chief Procurement Officer or Director upon written notice to the Chief Procurement Officer]

- 31.3 The Chief Procurement Officer or Director upon written authorization by the Chief Procurement Officer may issue more than one Change Order, subject to the following limitations:
- 31.3.1 Council expressly authorizes the Chief Procurement Officer or Director upon written authorization by the Chief Procurement Officer, to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved awarded amount must be approved by the City Council.
 - 31.3.2 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.
 - 31.3.3 The total of all Change Orders issued under this section may not increase the original award amount by more than 25%.
- 31.4 Whenever the Supplier receives a Change Order, Supplier shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Supplier shall complete the work within the time prescribed. If no time for completion is prescribed, Supplier shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Supplier is required to perform, Supplier may request a time extension for the completion of the work. The Chief Procurement Officer's or Director's decision regarding a time extension is final.
- 31.5 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.

32.0 TERMINATION OF AWARD:

- 32.1 By the City for Convenience:

The Chief Procurement Officer 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.

32.0 TERMINATION OF AWARD (CONTINUED):

32.2 By the City for Default by Supplier:

32.2.1 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 Chief Procurement Officer to the Supplier describing such default may as its options:

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

32.2.2 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.

32.3 By the Supplier for Default by City:

32.3.1 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.

32.3.2 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.

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

33.0 PATENTS

The Supplier agrees to indemnify and save harmless the City, the Chief Procurement Officer 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 Chief Procurement Officer, as a necessary requirement in connection with the final estimate for payment in which such patented appliance, products or processes are used.

34.0 SUPPLIER DEBT

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

35.0 CRIMINAL JUSTICE INFORMATION SYSTEMS (CJIS) COMPLIANCE (Applicable to Houston Police Department (HPD) Occupied Facilities):

The Houston Police Department recognizes that by allowing physical or logical (electronic) access to HPD facilities or network resources, people may gain access to information or systems they are statutorily prohibited from accessing. To comply with state and federal regulations, the Houston Police Department is required to document and investigate access requests to be sure access is necessary and permitted. Bidders/Respondents, therefore, agree to review the Criminal Justice Information Systems (CJIS) process and related documents located at <http://www.houstontx.gov/police/cjis/hpdvendorcertification.htm> and shall comply with the terms and requirements therein.