



22-0174

Annual Requirements Contract for PHPM50 for Potholes

Issue Date: 6/8/2022

Questions Deadline: 7/4/2022 05:00 PM (CT)

Response Deadline: 7/7/2022 02:00 PM (CT)

Procurement

Contact Information

Contact: Ashley Thongrivong Purchasing Agent

Address: Finance Department

City Tower

Business Office

101 S. Mesquite St

Suite 800

Arlington, TX 76010

Phone: (817) 459-6301

Email: Ashley.Thongrivong@arlingtontx.gov

Event Information

Number: 22-0174
Title: Annual Requirements Contract for PHPM50 for Potholes
Type: Sealed Bid
Issue Date: 6/8/2022
Question Deadline: 7/4/2022 05:00 PM (CT)
Response Deadline: 7/7/2022 02:00 PM (CT)
Notes: The intent of this solicitation is to establish an annual requirements contract for PHPM-50 for pothole repair. All material will be purchased on an as needed basis.

The City of Arlington exclusively uses IonWave for the notification and dissemination of all solicitations. The receipt of solicitations through any other means may result in your receipt of incomplete specifications and/or addendums which could ultimately render your bid/proposal non-compliant. The City of Arlington accepts no responsibility for the receipt and/or notification of solicitations through any other means.

The City of Arlington strongly encourages bidders to submit their response to this bid electronically. If submitting a paper bid, it must be submitted in a sealed envelope or package and labeled with the company name, solicitation number and title. Late bids will not be accepted.

Ship To Information

Address: Finance Department
City Tower
Business Office
101 S. Mesquite St
Suite 800
Arlington, TX 76010

Bid Attachments

SOW 22-0174.docx

22-0174 Scope of Work

[View Online](#)

GFE Checklist Fillable.pdf

Good Faith Effort (GFE) Checklist. Review the MWBE Special Contract Provisions document for information about this form.

[View Online](#)

LETTER OF INTENT TO SUBCONTRACT fillable.pdf

Letter of Intent form. Review the MWBE Special Contract Provisions document for information about this form.

[View Online](#)

MWBE UTILIZATION PLAN Fillable.pdf

Utilization plan. Review the MWBE Special Contract Provisions document for information about this form.

[View Online](#)

Requested Attachments

W9 Form

(Attachment required)

Please upload W-9 (Oct 2018 Rev.) as a Response Attachment.
Title as "W9"

Insurance ACORD Form

(Attachment required)

Please provide Insurance ACORD form as a response attachment. Insurance must be valid and not expired. Title as "COI"

MWBE Certification

If certified MWBE, please submit a copy of your certification.

MWBE Subcontracting Form

(Attachment required)

Download MWBE form from attachments and include a completed form with response attachments.

Bid Attributes

1 Contact Name

(Required: Maximum 1000 characters allowed)

2 Contact Phone

 (____) ____ - ____ ext:

(Required)

3 Tax ID:

(Required: Numbers only)

4 Contact Email:

(Required: Email address)

5 Digital Signature

The undersigned agrees if the bid is accepted, to furnish any and all items upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of this proposal shall be 90 calendar days unless stated otherwise herein.

The undersigned agrees they are authorized to furnish any and all items upon which prices are offered, at the price and upon the terms and conditions contained in the Bid/Proposal and all other items made a part of the accepted contract.

By entering your name in the field provided, you signify that you are accepting the terms and conditions of this quote and your typed name will serve as your electronic digital signature. You also certify that if a Texas address is listed, you qualify as a Texas resident bidder as defined in Rule 1 TAC 111.2.

☐ I have read and agree

(Required: Check if applicable)

6 MWBE

Minority and/or Woman Owned Business Enterprises are encouraged to participate in Arlington's procurement process. In order to be identified as a Qualified Minority and/or Woman Owned Business Enterprise in the City of Arlington, please state your classification:

☐ American Indian ☐ Asian ☐ Black ☐ Hispanic ☐ Woman Owned Business

☐ N/A - Not Applicable

(Required: Check only one)

7 MWBE Policy Statement

On March 30, 2021, the Arlington City Council approved the resolution to adopt the City's Minority/Woman Business Enterprise (MWBE) Policy & Procedures Manual. This MWBE Policy seeks to reduce race and gender-based barriers and foster participation with minority and woman-owned businesses in contracting and procurement opportunities with the City of Arlington by increasing the capacities of such firms to perform as prime vendors and subcontractors as well as suppliers.

The City of Arlington reaffirms that it will not, nor will its contractors, discriminate based on race, age, color, religion, sex, national origin, ancestry, gender, disability, or place of birth in the award and performance of contracts.

Every locally funded contract will be evaluated by the City of Arlington's Office of Business Diversity (OBD) to determine the appropriate method for enhancing MWBE participation, including progress towards the achievement of the annual aspirational MWBE goal and other program objectives.

Procedures for implementation, including good faith efforts requirements, information submitted with bid proposals, reporting procedures, etc., shall be consistent with the procedures utilized in the City's MWBE Policy & Procedures Manual.

MWBE PROJECT GOAL

The City's MWBE aspirational goal, for this project is **30 %**.

Trades identified for this solicitation includes:

- The contractor's MWBE commitment percentage is based on the total value of the contract including any change orders and modifications throughout the contract agreement.
- The criteria used to set a MWBE Contract Specific Goal shall include business availability, the nature of the contract, the City's past experiences with MWBE participation in similar contracts, price competitiveness, subcontracting opportunities, progress towards meeting the annual goal and other relevant factors.

For information about the City's Local & MWBE Policy, we have included a link to access the document (<http://www.arlington-tx.gov/finance/purchasing/bidding-procurement/>).

☐ I understand and agree

(Required: Check if applicable)

8 MWBE Submittal of Required Documentation

SUBMITTAL OF REQUIRED DOCUMENTATION

The following documents must be received by the assigned City Project Manager or Department Designee within the allocated times shown in order for the bid or proposal to be considered responsive to the specification. The Offeror shall **DELIVER OR EMAIL** the MWBE documentation to the assigned City Project Manager or Department Designee; a faxed copy will not be accepted.

MWBE Utilization Plan	Received on bid opening date and time.
Good Faith Effort Form and supporting documentation (if participation is less than stated goal)	Received no later than 2:00 pm CST, <u>two</u> (2) City business day after the bid opening or proposal due date. Please send your GFE form to agent of record.
Intent to Perform as a Subcontractor	Received no later than 2:00 pm, <u>two</u> (2) City business day after the bid opening date with MWBE Utilization Plan.

Failure to submit the required MWBE documentation, based on the listed time and date, will result in the bid or proposal to be considered non-responsive.

☐ I understand and Agree
(Required: Check if applicable)

9 Certification and Post Award Compliance

MWBE CERTIFICATIONS

The City will recognize MWBE companies that have received one or more certifications from the following organizations:

- North Central Texas Regional Certification Agency (NCTRCA),
- State of Texas Historically Underutilized Business (HUB),
- Texas Department of Transportation (TxDOT),
- DFW Minority Supplier Development Council (MSDC), and
- Woman's Business Council Southwest.

The City reserves the right to review, accept, or reject any certification from agencies not listed.

POST AWARD COMPLIANCE

If change orders, amendments, or any Contract modifications are issued, the contractor has a contractual commitment to meet and/or exceed their MWBE utilization goal. Contractor is obligated to immediately notify OBD, in writing, of any agreed increase or decrease in the scope of work that will impact the MWBE participation on the contract.

The Contractor cannot terminate, substitute, or change the terms of the MWBE Utilization Plan prior to or after Contract award without the prior written consent of the OBD. If the Contractor is unable to meet its MWBE commitment with existing MWBEs, the Contractor shall satisfy its commitment, as it relates to scope of work changes, modifications, and or amendments, by soliciting new MWBEs, must submit a **Request for Approval of Change to MWBE Utilization Plan** for review and written approval from the OBD.

All payments must be submitted to our supplier diversity portal BG2Now: <https://arlingtontx.diversitycompliance.com/>

☐ I understand and Agree

(Required: Check if applicable)

10 Certification Status

If you are an MWBE, which certification agency do you go through?

☐ NCTRCA ☐ HUB ☐ DFW MSDC ☐ WBC-SW ☐ TxDot, DBE ☐ SBA, 8(A) Program

(Optional: Check only one)

11 W-9 Form

Bidder shall include IRS Form W-9 (October 2018 revision) with their bid submission. This may be done electronically by clicking on the "Response Attachments" tab and clicking on upload.

Bidder here acknowledges that a copy of their company's W-9 Form has been included with this submission.

☐ I have read and agree

(Required: Check if applicable)

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Addendum Acknowledgment

I acknowledge the receipt of all addendums issued with this solicitation. It is the responsibility of the vendor to ensure that they have received addendums if issued.

Call or email Agent of Record prior to submitting your bid to ensure that you have received addendums.

☐ I have read and agree
(Required: Check if applicable)

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Instruction To Bidders

INSTRUCTION TO BIDDERS:

BID DOCUMENTS:

The City of Arlington's IonWave Procurement Portal is the only authorized source for obtaining accurate Bid forms. All addenda and notices related to this procurement will be posted by the City in IonWave.

The City encourages all bids be submitted electronically through the City's IonWave Procurement Portal. If submitting a paper bid, it must be submitted in a sealed envelope or package and labeled with the company name, solicitation number and title.

In either case, bids must be received prior to the due date and time. It is the sole responsibility of the Bidder to ensure timely delivery of the Bid by means chosen by Bidder. The time stamp clock in the Finance Department and in the IonWave system is the official time of record. Late bids will not be accepted.

To receive consideration, the Bid must be submitted on the Bid forms as provided by the City. This Sealed Bid must be completely filled out.

Any addenda or other modification to the Bid documents will be issued by the City prior to the date and time of Bid closing. Such addenda or modification shall be part of the Bid documents and shall be binding upon each Bidder. Each Bidder is required to acknowledge receipt of any and all addenda and submit with their bid.

The City is not responsible for any solicitations advertised by subscriptions, publications; websites (other than the City's) or other sources not connected with the City and the Bidder should not rely on such sources for information regarding any solicitation made by the City of Arlington.

In the event this Bid is obtained through any means other than City's IonWave Procurement Portal, the City will not be responsible for the completeness, accuracy, or timeliness of the final Bid documents received from those other sources. Bid forms obtained from any other source may be incomplete and Bidders risk not receiving necessary addenda, or other required documents causing bid to be considered non-responsive and eliminating the Bid from award.

PREPARATION OF BID:

Bidders are expected to carefully examine all documents that make up this bid, including all addenda, attachments, and exhibits to thoroughly familiarize themselves with all requirements prior to submitting a bid. Upon examination of the solicitation and discovery of any discrepancies, inconsistencies, errors, or ambiguities in, or omissions from the solicitation documents, or should the bidder be in doubt of any meanings, the bidder shall promptly notify the Purchasing Agent of Record.

Bid Preparation Costs: All costs associated with the preparation of response for this bid or any other City solicitation shall be borne by the bidder, and not the City.

MINIMUM STANDARDS:

Specifications listed herein describe the expected minimum standards. If any exceptions are taken by the Bidder, the Bidder is responsible for indicating each deviation from the specifications, including an explanation, justification, or applicable literature for the deviation, and initialed by representative taking exception(s). Any and all exception must be submitted at time of bid submittal. The City reserves the sole right to accept or reject, in whole or part, any proposed exceptions. The absence of any indications will be interpreted as Bidder's complete compliance with the entire specification.

EXPLANATION OF BID LANGUAGE:

It is the intent and purpose of the City of Arlington that this solicitation promotes competitive bidding. It shall be the Bidder's responsibility to advise the Purchasing Agent of Record, at the email listed on the cover page of this solicitation, if any language, requirements, or combination thereof, inadvertently restricts or limits the requirements stated in this Bid to a single source. Interpretations, corrections, or changes to the bid made in any other manner are not binding upon the City, and bidders shall not rely upon such interpretations, corrections or changes. Oral explanations or instructions given before the award of the contract are not binding. The City expressly reserves the right to:

- Specify approximate quantities in the bid
- Extend the bid opening date and time
- Add additional terms or modify existing terms in the bid

ADDENDA:

- Any interpretations, clarifications, and changes made will be issued by the Purchasing Division.
- Oral answers received by any member of the Purchasing Division or requesting Department will not be authoritative, and the City will not entertain any protest based on a verbal instruction.
- It is the bidder's responsibility to obtain, review and acknowledge any and all addenda. Receipt of Addenda must be acknowledged within the bid attributes.
- Addenda are available through the City's IonWave Procurement Portal. It is the responsibility of the Bidder to ascertain if any addenda have been issued, to obtain such addenda, and to return executed addenda with their bid. The City will not consider any request to re-open a bid as a result of failure by Bidder to secure addenda in accordance with this bid.
- Failure to return any and all issued addenda may adversely affect the bidder's opportunity for award.

BID COMPLIANCE:

- All items contained in the bid must be in total compliance with the specifications in this solicitation.
- Each Bidder must furnish the information required by the solicitation on the documents provided. Bids submitted on any other form(s) may be considered non-responsive.
- Any attempt to alter the wording in the bid may result in rejection of the bid.
- Bids may not include exempted taxes such as City, State, and most Federal taxes. The successful bidder should request a Tax Exemption Certificate from the Purchasing Division as needed. Under no circumstances shall the City be liable to pay taxes for which the City has an exemption.
- Conflict of Interest: All Bidders must disclose, with the bid, the name of any officer, director, or agent who is also an officer or employee of the City of Arlington. Furthermore, all Bidders must disclose the name of any City of Arlington officer or employee who owns, directly, or indirectly, an interest of ten percent (10%) or more of the Bidder's firm or any of its branches. Failure to disclose in this manner will result in the immediate disqualification of or cancellation of the bid for work. The City will seek all damages for the recoupment of losses in having to re-bid or re-assign this bid.

PRICES:

Bid pricing for goods and services covered under this specification shall be firm unless otherwise specified. Pricing shall include, but is not limited to, mobilization, labor, material, equipment, tools, license, FOB delivery, unless otherwise requested on the Bid Price Schedule. It is the responsibility of the Bidder to check the unit price being submitted on the solicitation and shall verify accuracy of pricing by signature on the Bid Price Schedule. No price changes will be allowed after opening. In the event of a discrepancy between unit price and extended price, the unit price shall prevail as accurate.

BRAND NAME OR EQUAL:

If the bid indicates brand name or "equal" products are acceptable, the bidder may bid an "equal" product as an alternate bid but must be prepared to demonstrate those features that render it equal. Final determination of a product as an "equal" solely remains with the City.

DELIVERY TIME:

Delivery time, if stated as a number of days, and shall be interpreted as calendar days. It is understood by Bidder that time is of the utmost with any City purchase; and therefore, if the indicated date cannot be met, or the date is not indicated, the bidder shall state its best delivery time. Failure to meet delivery times quoted may be grounds for

cancellation of contract.

SIGNATURE:

The bidder must electronically sign each document in the bid requiring a signature. If addenda are issued, the bidder must make acknowledgement of addenda. Bidder's failure to sign required documents may result in the disqualification of the bid.

COMPLIANCE WITH LAWS:

The Bidder shall give all notices and comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and lawful orders and decrees of any court, administrative bodies, tribunals, or any public authority in any matter bearing on the performances of the services specified herein. This agreement and the rights and obligations of the parties hereto shall be interpreted, construed, and enforced in accordance with the laws of the State of Texas. The Bidder warrants and covenants to the City that all services will be performed in compliance with all applicable federal, state, county, and city health and safety codes, rules and ordinances including, but not limited to, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment, and licensing laws and regulations, the Texas Industrial Safety and Health Act, and the Workers Right to Know Law.

The Bidder shall maintain all required licenses, certifications, etc. throughout the term of the bid specification. Upon request, the Bidder must furnish the City with satisfactory proof of its compliance.

UNAUTHORIZED WORKERS: The City will not intentionally award publicly-funded contracts to any Bidder who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")], and as amended. The City shall consider the employment by any Bidder of unauthorized aliens a violation of Section 274A (e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the City.

Modifications, Withdrawal of Bid, or No Bid Modification of Bids:

- Bids may be modified at any time prior to the due date and time.
- No additional or modified Terms and Conditions included with the bid response shall be evaluated or considered. If submitted it is understood and agreed that the general Terms and Conditions, Special Provisions, and all other supporting documents issued within this solicitation are the only applicable terms and conditions, and the bidder's authorized signature, affixed to the bid, attests to this.

OPENING OF BIDS:

The Office of Procurement representative responsible for opening bids shall confirm the time and announce the bid opening. The representative shall then personally and publicly open and read aloud all bids received on time, in accordance with solicitation type.

PUBLIC DISCLOSURE:

Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (The "Public Information Act"). Proprietary Information: All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt. If a bidder does not desire proprietary information in the bid to be publicly disclosed, each page must be identified and marked proprietary at time of submittal.

The City will, to the extent allowed by law, endeavor to protect such information from public disclosure. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

Compliance with Texas Government Code Chapter 552:

- A. In this section, Contracting Information shall have the same meaning as defined in Texas Government Code § 552.003(7).
- B. The Contractor must preserve all Contracting Information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract;

C. The Contractor must promptly provide to the governmental body any Contracting Information related to the contract that is in the custody or possession of the entity on request of the governmental body; and

D. On completion of the contract, Contractor shall either

1. Provide at no cost to the Owner all Contracting Information related to the contract that is in the custody or possession of the Contractor; or
2. preserve the Contracting Information related to the contract as provided by the records retention requirements applicable to the City of Arlington.

E. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract 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.

AMERICANS WITH DISABILITIES ACT:

Anyone requiring reasonable accommodation for the public meetings specified herein (i.e. Pre-Bid Meeting or Bid Opening Meeting) should contact the Purchasing Agent of Record named on the first page of this document at least 24 hours in advance of the activity to request accommodations.

SUPPLIER CODE OF ETHICS:

The City of Arlington, Texas, is committed to a procurement process that fosters fair and open competition, as we are governed by the highest ideals of honor and integrity in order to merit public respect and confidence in the spending of public dollars.

To achieve these goals, the following ethical principles shall govern each Supplier who seeks to do business with the City.

Each Supplier shall not:

- Engage in collusive bidding, price fixing, price discrimination, or make an agreement with any other competing Supplier for the purpose of restricting competition.
- Disclose pricing or quotes in submitted bids or proposals, directly or indirectly, to any other competing Supplier prior to the closing date for bids or proposals.
- Make any attempt to induce or coerce any other individual/entity to submit or refrain from submitting a bid or proposal.
- Under any circumstances, offer or give directly or indirectly, any gifts, gratuities, or other things of value to a City employee or family member, consultant or contractor in connection with the bid or proposal, which might influence or appear to influence purchasing decisions.
- Initiate, negotiate, or render an offer of employment to any City employee who is directly involved with, or personally participating on behalf of the City with respect to any procurement or other matter involving the Supplier.

Each Supplier shall:

- Disclose any transaction or participation of any individual in an operational situation that presents a conflict of interest
- Completely perform any awarded contract, at the contracted price, according to the terms set forth in the contract, and will submit timely and accurate invoices for goods and/or services performed.

Violation of any provision of this Supplier's Code of Ethics, may render the Supplier non-responsible, debarred, or in material breach of the contract, which could result in criminal or civil penalties under the State or Federal Law.

☐ I have read and agree

(Required: Check if applicable)

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Communication Prohibitions

CONTACT WITH CITY COUNCIL, STAFF AND ADVISORS:

All questions concerning this procurement solicitation must be directed to the Purchasing Agent of Record.

The following provisions are intended to ensure a fair and equitable review process so that there is no actual or potential situation where one vendor secures or attempts to secure an unfair advantage over another vendor or creates a situation where there is an appearance of impropriety in contacts between the vendor or vendor's agent or vendor's contractor or vendor's consultant and City officials.

After release of the bid or proposal, no officer, employee, agent or representative of the vendor shall have any contact or discussion, verbal or written, with any members of the City Council, City staff or City's consultants, or directly or indirectly through others, seek to influence any City Council member, City staff, or City's consultants regarding any matters pertaining to this bid project, except as herein provided.

Contacts by the vendor with City staff when such contacts do not pertain to this proposal are exempt from this provision. Examples include:

- Private (non-business) contacts with the City by the vendor's employees acting in their personal capacity
- Contact made to conduct business with the City of Arlington or City of Arlington programs, unrelated to this bid or proposal
- Presentations and/or responses to inquiries initiated by City Staff

and if a representative of the vendor has a question about any potential contact as described above, the Purchasing Manager will be notified in order to make a determination as to whether any contact is allowed in accordance with the bid or proposal submission.

If a representative of any company or party submitting a proposal violates the foregoing prohibition by contacting any of these parties, such contact may result in a vendor being disqualified from the process.

☐ I have read and agree
(Required: Check if applicable)

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Standard Terms and Conditions

STANDARD TERMS AND CONDITIONS:

B1. APPLICABLE LAW/VENUE: This Contract is entered into subject to the Charter and ordinances of the City of Arlington, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. The parties to this contract agree and covenant that for all purposes, including performance and execution that this contract/agreement will be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this contract, exclusive venue will lie in Tarrant County, Texas.

B2. INDEPENDENT CONTRACTOR: Contractor shall operate hereunder as an independent contractor and not as an officer, agent, servant or employee of City. Contractor shall have exclusive control of, and the exclusive right to control, the details of its operations hereunder, and all persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants.

B3. ASSIGNMENT: The Contractor shall not sell, assign, transfer or convey any interest in this contract in whole or in part without the prior written consent of the City of Arlington. No assignment, transfer or conveyance under this contract will be effective without the prior written consent of the City.

B4. CONFLICT OF INTEREST: The Contractor covenants and agrees that Contractor and its officers, employees, and agents will have no interest, including personal financial interest, and will acquire no interest, either directly or indirectly, which will conflict in any manner with the performance of the services called for under this Contract. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except

on behalf of the City or in compliance with the provisions of the City of Arlington Personnel Policies and Procedures Manual. Any violation of this provision shall render this contract voidable at the discretion of the City.

B5. SEVERABILITY: In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this contract, and this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

B6. MODIFICATIONS: This contract can be modified only by written agreement of the parties.

B7. REMEDIES: No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this contract may be waived without consent of the parties. Forbearance or indulgence by any party shall not constitute a waiver of any covenant or condition to be performed pursuant to this contract.

B8. TARGET ARLINGTON: In performing this contract, Contractor agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality, and price.

B9. M/WBE: As a matter of policy with respect to the City of Arlington projects and procurements, City of Arlington also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, the Contractor agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this contract.

B10. PAYMENT TERMS: All payment terms shall be Net 30, and payments shall be made on approved invoices in accordance with the Texas Prompt Payment Act.

B11. TAXES: The City of Arlington is exempt from Federal Excise and State Sales taxes. Taxes must not be included in bid pricing. Tax exemption certificates will be prepared and executed by the City's Purchasing Division and furnished upon request.

B12. FUNDING: Contractor recognizes that the continuation of any contract after the close of any given fiscal year of the City of Arlington, which fiscal year ends on September 30 of each year, shall be subject to Council budget approval of the City of Arlington providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will actually be adopted as this determination is within the sole discretion of the City Council. Should funding not be approved by the City Council for any given budget year during the contract term, the contract will terminate and become null and void.

B13. F.O.B. DELIVERED AND DAMAGES: Prices bid and quoted shall always be Freight On Board (F.O.B.) Delivered, to Municipal Facility, Arlington, Texas, and shall include all freight, delivery and packaging costs. The City of Arlington assumes no liability for goods damaged while in transit and or delivered in a damaged or unacceptable condition. The Contractor shall be responsible for and handle all claims with carriers, and in case of damaged goods shall ship replacement goods immediately upon notification by the City of damage.

B14. CONTRACTOR TO PACKAGE GOODS: Contractor will package goods in accordance with good commercial practice. Each shipping container, shall be clearly and permanently marked as follows: (a) Contractor's name and address; (b) Consignee's name, address and purchase order or purchase change order number; (c) Container number and total number of container, e.g., box 1 of 4 boxes; and (d) Number of the container bearing the packing slip. Contractor shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform to requirements of common carriers and any applicable specifications. City's count or weight shall be final and conclusive on shipments not accompanied by packing list.

B15. PLACE OF DELIVERY: The place of delivery shall be set forth in the block of the purchase order or purchase change order entitled "Ship to."

B16. TITLE AND RISK OF LOSS: The title and risk of loss of goods shall not pass to the City of Arlington until the City actually receives and takes possession of the goods at the point(s) of delivery, after inspection and acceptance of goods.

B17. FORCE MAJEURE: Contractor shall not be liable for delay in delivery or performance when such delay is due to factors beyond its control, including but not limited to, explosions, governmental regulations, court orders or decrees, or acts of nature such as flood, wind, earthquake, tornado or hurricane. If the Contractor is unable to perform any of its obligations as a result of force majeure, Contractor shall immediately give written notice to the Purchasing Division of the date of inception of the force majeure condition and the extent to which it will affect performance.

B18. RIGHT OF INSPECTION: City shall have the right to inspect the goods upon delivery before accepting them. Contractor shall be responsible for all charges for the return to Contractor of any goods rejected as being nonconforming under the specifications.

B19. RIGHT TO AUDIT: Contractor agrees that the City shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions relating to this Contract. Contractor agrees that the City shall have access, during normal working hours, to all necessary Contractor facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this section. The City shall give Contractor reasonable advance notice of intended audits.

B20. PRICE WARRANTY: The price to be paid by the City shall be that contained in Contractor's bid, which Contractor warrants to be no higher than Contractor's current prices on orders by others for products of the kind and specification covered by this contract for similar quantities under like conditions and methods of purchase. In the event Contractor breaches this warranty, the prices of the items shall be reduced to Contractor's current prices on orders by others, or in the alternative upon City's option, City shall have the right to cancel this contract without liability to Contractor for breach or for Contractor's actual expense.

B21. WARRANTY SERVICE CLAUSE: Under the terms of the warranties which arise from these contract documents and/or by the terms of any applicable special warranties required by the contract documents, if any of the work in accordance with this contract is found to not be in accordance with the requirements of the contract documents, the Contractor shall correct such work promptly after receipt of written notice from the City of Arlington or the architect, engineer or other entity as the contract documents may provide. This obligation shall survive acceptance of the work under the contract and termination of the contract. In order to facilitate a prompt response, Contractor agrees to provide for warranty service to the extent practical, from local businesses, including goods and services, when such goods and services are comparable in availability, quality and price. If Contractor fails within a reasonable time after written notice to correct defective work or to remove and replace rejected work, or if Contractor fails to perform the work in accordance with the contract documents, or if Contractor fails to comply with any provision in the contract document, either the City of Arlington or its designee may, after seven (7) days written notice to Contractor, correct and remedy any such deficiency.

B22. SAFETY WARRANTY: Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA) of 1970, as amended. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at Seller's expense. In the event Seller fails to make appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense. Where no correction is or can be made, Seller shall refund all monies received for such goods within thirty (30) days after request is made by Buyer in writing and received by Seller. Notice is considered to have been received upon hand delivery, or otherwise in accordance with Section B5 of these terms and conditions. Failure to make such refund shall constitute breach and cause this contract to terminate immediately.

B23. SOFTWARE LICENSE TO SELLER: If this purchase is for the license of software products and/or services, and unless otherwise agreed, Seller hereby grants to Buyer, a perpetual, irrevocable, nonexclusive, nontransferable, royalty free license to use the software. This software is proprietary" to Seller, and is licensed and provided to the Buyer for its sole use for purposes under this Agreement and any attached work orders or invoices. The City may not use or share this software without permission of the Seller; however Buyer may make copies of the software expressly for backup purposes.

B24. WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY: Seller warrants that the goods or services do not infringe upon or violate any United States patent, copyright, or trade secret. Seller will defend at its expense any action against Buyer or Buyer as licensee to the extent that it is based on a claim that goods used or services provided used within the scope of the license hereunder infringe upon a United States patent, copyright or trade secret, and Seller will pay any and all costs and damages finally awarded against Buyer or Buyer as licensee in such actions which is attributable to such claim. Should the products or services become, or in Seller's opinion be

likely to become, the subject of any claim of infringement, Seller shall either: (a) procure for Buyer the right to continue to use the goods or services; or (b) modify the goods or services to make them non-infringing, provided that such modification does not materially adversely affect Buyer's authorized use; or (c) replace the goods or services with equally suitable, compatible, and functionally equivalent non-infringing goods or services at no additional cost to the Buyer; or (d) if none of the foregoing alternatives is reasonably available to Seller, terminate this agreement and refund to Buyer the payments actually made to Seller under this agreement.

B25. OWNERSHIP OF WORK PRODUCT: Seller agrees that any and all analyses, evaluations, reports, memoranda, letters, ideas, processes, methods, programs, and manuals that were developed, prepared, conceived, made or suggested by the Seller for the City pursuant to a Work Order, including all such developments as are originated or conceived during the term of the Contract and that are completed or reduced to writing thereafter (the "Work Product") and Seller acknowledges that such Work Product may be considered "work(s) made for hire" and will be and remain the exclusive property of the City. To the extent that the Work Product, under applicable law, may not be considered work(s) made for hire, Seller hereby agrees that this Agreement effectively transfers, grants, conveys, and assigns exclusively to Buyer, all rights, title and ownership interests, including copyright, which Seller may have in any Work Product or any tangible media embodying such Work Product, without the necessity of any further consideration, and Buyer shall be entitled to obtain and hold in its own name, all Intellectual Property rights in and to the Work Product. Seller for itself and on behalf of its contractors hereby waives any property interest in such Work Product.

B26. NEW MATERIALS: Except as to any supplies or components which the specifications provide need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production, and of the most suitable grade for the purpose intended.

B27. RECYCLE MATERIALS: Except as to any supplies or components which the specifications provide need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production and of the most suitable grade for the purpose intended. If at any time during the performance of this contract the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, they shall notify the Purchasing Manager immediately, in writing, including the reasons therefore and proposing any consideration which will flow to the City if authorization to use supplies or components is granted. The City of Arlington supports a recycling program. Recycled materials are acceptable and will be considered for award. The City desires to use recycled products when a comparable material/product is available. If your company distributes products made of recycled materials please submit an alternate bid for the items requested. All recycled products should meet the minimum standards established in the bid specifications provided. State any exceptions: costs, warranties and percentage of recycle materials used in the manufacture of the material/product. The City will determine the acceptability of the materials/product bid as an alternate.

B28. USE OF ARLINGTON, TEXAS LANDFILL: All contracts for contractors performing demolition and/or construction projects for Arlington, Texas shall contain a provision requiring that all debris, trash and rubble from the project be transported to and disposed of at the Arlington Landfill in accordance with local and state regulations. The contractor shall provide evidence of proper disposal through manifests, which shall include the types of material disposed of, the name and location of the disposal facility, date of disposal and all related fees.

B29. HEALTH, SAFETY, AND ENVIRONMENTAL REQUIREMENTS: Services, products, materials, and supplies provided by the Seller must meet or exceed all applicable health, safety, and the environmental laws, requirements, and standards. In addition, Seller agrees to obtain and pay, at its own expense, for all licenses, permits, certificates, and inspections necessary to provide the products or to perform the services hereunder. Seller shall indemnify Buyer from any penalties or liabilities due to violations of this provision. Buyer shall have the right to immediately terminate this Agreement for violations of this provision by Seller.

B30. SAMPLES: Samples, if required, shall be furnished free of expense to the City and if not used or destroyed in examination and testing will be returned to the bidder, if requested, at the bidder's expense. Each sample must be marked with bidder's name, address, and bid number reference. SAMPLES SHOULD NOT BE ENCLOSED WITH BID UNLESS REQUESTED.

B31. SILENCE OF SPECIFICATION: The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

B32. INDEMNIFICATION: Contractor does hereby agree to waive all claims, release, indemnify and both hold harmless the City, its officials, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands or causes of action, including all expenses of litigation and/or settlement, court costs and attorney fees, which may arise by reason of death or injury to persons or loss of, damage to, or loss of use of any property occasioned by any error, omission, or negligent act of the Contractor, its officers, agents, employees, subcontractors, invitees, or other persons for whom the Contractor is legally liable, arising out of or in connection with the performance of this contract, and Contractor will at its own cost and expense defend and protect the City against any and all such claims and demands.

Provided that this contract is not a contract for professional services as described in the Texas Professional Services Procurement Act, Contractor does further hereby agree to waive all claims, release, indemnify, defend and hold harmless the City and all of its officials, officers, agents and employees from and against any and all claims, losses, damages, suits, demands or causes of action, and liability of every kind including all expenses of litigation and/or settlement, court costs and attorney fees for injury or death of any person or for loss of, damages to, or loss of use of any property, arising out of or in connection with the performance of this contract.

Such indemnity shall apply whether the claims, losses, damages, suits, demands or causes of actions arise in whole or in part from the negligence of the City, its officers, officials, agents or employees. It is the express intention of the parties hereto that the indemnity provided for in this paragraph is indemnity by the Contractor to indemnify and protect the City from the consequences of City's own negligence whether that negligence is a sole or concurring cause of the injury, death or damage.

B33. NON-DISCRIMINATION: Contractor shall not discriminate against any employee or applicant for employment of Contractor or of the City of Arlington because of race, age, color, religion, sex, national origin, ancestry, disability, or place of birth. Contractor shall take action to ensure that all persons are employed and/or treated without regard to their race, age, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, disability, or place of birth. This action shall include, but not be limited to the following: employment, promotion, demotion, transfer, working conditions, recruitment, layoff, termination, rates of pay or other forms of compensation, and training opportunities.

B34. IMMIGRATION NATIONALITY ACT: The City of Arlington actively supports the Immigration & Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Seller shall verify the identity and employment eligibility of all employees who perform work under this Agreement. Seller shall complete the Employment Eligibility Verification Form (I-9), maintain photocopies of all supporting employment eligibility and identity documentation for all employees, and upon request, provide Seller with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Seller shall establish appropriate procedures and controls so that no services will be performed by any worker who is not legally eligible to perform such services. Seller shall provide Buyer with a certification letter that it has complied with the verification requirements required by this Agreement. Seller shall indemnify Buyer from any penalties or liabilities due to violations of this provision. Buyer shall have the right to immediately terminate this Agreement for violations of this provision by Seller.

B35. DISABILITY: In accordance with the provisions of the Americans With Disabilities Act of 1990 (ADA), Contractor warrants that it and any and all of its subcontractors will not unlawfully discriminate on the basis of disability in the provision of services to general public, nor in the availability, terms and/or conditions of employment for applicants for employment with, or employees of Contractor or any of its subcontractors. Contractor warrants it will fully comply with ADA's provisions and any other applicable federal, state and local laws concerning disability and will defend, indemnify and hold City harmless against any claims or allegations asserted by third parties or subcontractors against City arising out of Contractor's and/or its subcontractor's alleged failure to comply with the above-referenced laws concerning disability discrimination in the performance of this contract.

B36. TERMINATION FOR DEFAULT: The City of Arlington reserves the right to terminate the contract without prior notice in the event the Contractor defaults or breaches any of the terms and conditions of this contract, or otherwise fails to perform in accordance with the bid specifications. In the event of termination the City reserves the right to complete the work or services in any manner it deems desirable, including engaging the services of other parties therefore and/or awarding the bid to the next lowest responsible bidder.

Any such act by the City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy, the cost to City of the performance of the balance of the work or services is in excess of that part of the contract sum, which has not therefore been paid to the Contractor hereunder, Contractor shall be liable for and

shall reimburse the City for such excess. Bidders shall for this purpose, keep their bids open and prices fixed for a period of 90 days following the award of this bid.

B37. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the contract, in whole or in part, without cause any time upon thirty (30) days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease placing orders and all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent funds are appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

B38. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT. 252, 42 U.S.C. 2000D TO 2000D-4: The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

B39. PURSUANT TO CHAPTER 2270 OF THE TEXAS GOVERNMENT CODE: The Vendor verifies that Vendor does not boycott Israel and will not boycott Israel during the term of this Contract.

B40. PURSUANT TO CHAPTER 2274 OF THE TEXAS GOVERNMENT CODE: Prevents any municipal government from entering into a contract for goods and services unless the contractor makes certain verifications. The Contractor verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and that it will not discriminate against a firearm entity or firearm trade association during the term of this Contract.

B41. PURSUANT TO CHAPTER 2274 OF THE TEXAS GOVERNMENT CODE: Prevents any municipal government from entering into a contract for goods and services unless the contractor makes certain verifications. The Contractor verifies that it does not boycott energy companies and will not boycott energy companies during the term of the Contract.

B42. COMPLIANCE WITH FEDERAL REGULATIONS: All contracts involving federal funds will contain certain provisions required by applicable sections of CFR 34, Section 80.36(l). The vendor certifies by signing the bid that the vendor and his/her principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in federally funded transactions and may, in certain instances, be required to provide a separate written certification to this effect.

During the term of any contract with the City, in the event of debarment, suspension, proposed debarment, declared ineligible or voluntarily excluded from participation in federally funded transactions, the vendor shall immediately notify the City's Purchasing Manager, in writing. Vendors will also be required to provide access to records, which are directly pertinent to the contract and retain all required records for three years after the City makes final payment. For all contracts involving Federal funds in excess of \$10,000, the City reserves the right to terminate the contract for cause, as well as for convenience, by issuing a certified notice to the vendor.

B43. NO THIRD-PARTY BENEFICIARY: For purposes of this contract, including its intended operation and effect, the parties to this contract specifically agree and contract that: (1) the agreement only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entity may be in a contractual relationship with City or Contractor or both; and (2) the terms of this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Contractor.

B44. THE AGREEMENT: In the absence of an otherwise negotiated contract, or unless stated otherwise, the Agreement between Buyer and Seller shall consist of these Standard Terms and Conditions together with any applicable bid documents published by the Buyer and Seller's Response to such bid (the "contract documents"). This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of trade shall be relevant to supplement or explain any term used in this Agreement. Acceptance of or acquiescence in a course of performance under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code (UCC) is used in this

Agreement, the definition contained in the UCC shall control. In the event of a conflict between the contract documents, the order of precedence shall be these Standard Terms and Conditions, the Buyer's published bid documents and the Seller's response. If Buyer and Seller have otherwise negotiated a contract, this Agreement shall not apply.

B45. HEADINGS: The headings of this contract are for convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

☐ I have read and agree
(Required: Check if applicable)

1 6 **EVALUATION FOR AWARD, OR REJECTION OF BIDS**

EVALUATION FOR AWARD, OR REJECTION OF BIDS:

EVALUATION

The City reserves the right to accept or reject, in part or in whole, any bid submitted, and to waive any technicalities in the best interest of the City. The City reserves the right to award in whole to a sole Bidders, split the award between multiple Bidders, or may choose not to award some or all items, depending on the best interest of the City.

The Bidder may furnish pricing for all or a portion of the bid, unless otherwise specified herein. Bids that specify an "all or none" award may be considered if a single award is advantageous.

POST QUALIFICATION

Criteria must be presented at time of Bid's submission to be considered for award. Review criteria includes, but is not limited to:

- Bidder's following Instructions to Bidders Section;
- Submitting only the documentation required as specified in Special Conditions, and in its entirety;
- Review the Experience of Bidder
 - (a) Bidder must submit the minimum number of specified references within the specified number of years who can substantiate the Bidder meets the minimum qualifications, experience, knowledge, skills, and capability of requirements to successfully complete similar services;
 - (b) References shall illustrate Bidder has provided the services as outlined in the specification for size, time, and responsibility;
 - (c) Any negative verification, failure to verify, or other public information may render bid non-awardable.
- Delivery of Bid is a factor of award. Failure to perform within the delivery deadline set forth herein, or per addenda, shall deem Bid as non-responsive.

PRICING

Pricing shall remain firm for 1 year of the contract period, unless otherwise stated in Special Provisions section. Pricing may be reviewed per the following:

Best Price: An award will be made without further negotiation based upon sealed competitive bids; therefore, the Bidder's best and reasonable price should be submitted in response to the solicitation.

- Reasonable Pricing will be reviewed as part of Best Pricing. A reasonable unit price must be submitted for each line item. In the event, that any unit pricing is determined to be unreasonably too low or too high, the bid may, in whole or part, be determined non-responsive.

RESERVATIONS

The City expressly reserves the right to, with or without cause, and without recourse:

- Consider and accept alternate bids, if specified in the bid documents, when most advantageous to the City;
- Waive as an informality, any minor deviations or technicalities from specifications provided they do not affect competition or result in functionally unacceptable goods or services;

- Waive any minor informality in any bid or bid procedure (a minor informality is defined as one that does not affect the competitiveness of the Bidder);
- Reject a bid because of unbalanced unit bid prices;
- Bidder has previously failed to perform properly, or complete an on-time contract of similar nature, or whom has poor vendor performance documented as part of a public record;
- To be the sole judge of references;
- Reject or cancel any or all bids;
- Reject any part of a bid;
- Reissue a solicitation for bid; and/or
- Procure any item by other means.

PROHIBITED VENDORS

As of the date of this transaction, Vendor certifies that they are not listed in the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control (see <http://www.treas.gov/offices/enforcement/ofac/sdn/>).

In addition, Vendor certifies that they are not listed on the Excluded Parties List System (EPLS) which is found at www.sam.gov.

Vendor agrees that should at any time during the term of this contract they become listed on either the Terrorism List or EPLS, Vendor shall promptly notify the City. The City shall have the absolute right to terminate this contract without recourse in the event Vendor becomes listed on the Terrorism List. Vendors identified on either list at time of bid review will not be considered for award.

AWARD

If awarded, the contract or contract(s) shall be based on the City's evaluation criteria and compliance with solicitation requirements.

The City of Arlington shall award the bid(s) to the Bidder(s) who meet both the required specifications, and offers the Best Pricing by the lowest responsive, responsible bidder or provides the Best Value to the City.

- A responsive bidder is defined to be one who submits a completed sealed bid packet that conforms to all technical and legal requirements within the stated time deadline and in accordance with the bid specifications. A responsible bidder is defined to be one who demonstrates specific selection criteria responses indicating that the company has the financial resources, judgement, skill, integrity, performance record and overall ability to successfully deliver the supplies, equipment, or services being procured.
- Best Value: In determining the "best value" the following criteria will be considered as amended in section 252.043 of the Texas Local Government Code:
 - (a) Purchase Price;
 - (b) Reputation of the bidder and the bidder's goods/services;
 - (c) Quality of the bidder's goods or services;
 - (d) Extent to which the goods or services meet the municipality's needs;
 - (e) Bidder's past relationship with the municipality;
 - (f) Impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities;
 - (g) Total long-term cost to the municipality to acquire the bidder's goods or services; and
 - (h) Any relevant criteria specifically listed in the request for bids or proposals.

ORDER OF PRECEDENCE:

This bid specification shall be included and incorporated in the final agreement or purchase order. Unless otherwise expressly provided in the final agreement or purchase order, in the event of any conflict between the terms of the final agreement or purchase order; this bid specification; and the vendor's response, the order of precedence shall be the final agreement or purchase order, followed by the solicitation, and then the response to the solicitation.

VENDOR DEBRIEFING:

Vendor debriefing is available within 30 days following award of any contract.

BID GRIEVANCE PROCEDURES:

Any actual bidder or proposer who believes they are aggrieved as a result of a bid or proposal from the City of Arlington may file a grievance. Only written grievances may be considered. The grievance may not be in regard to specific evaluation criteria or weights.

1. The grievance must be in writing and delivered to the Procurement Manager of the City of Arlington. The grievance may be delivered in person to the department offices located at 101 South Mesquite Street, Ste. 800, Arlington, Texas.
2. The Office of Procurement must receive the written grievance within five (5) business days after the posting of the City staff's award recommendation appearing on the lonwave Procurement Portal.
3. The written grievance must include the following information before it may be considered by the city:
 - Name, mailing address, and business phone number of the aggrieved party;
 - Identification of the bid or proposal to be reviewed;
 - Citation detailing the exact law that is believed to have been violated;
 - A precise and short statement of the reason or reasons for the grievance which should provide enough factual information to enable the city to determine the basis of the grievance; and any documentation or other evidence supporting the grievance.
4. All applicable documentation and other information applying to the grievance must be submitted to the Procurement Manager at the time of grievance.
5. The Office of Procurement, in conjunction with the department responsible for the bid or proposal solicitation, will attempt to resolve the grievance, including, at the Purchasing Manager's option, meeting with the aggrieved party. If the grievance is successfully resolved by mutual agreement, the Purchasing manager shall submit a copy/verification of the resolution to the City Manager or designee
6. If the Office of Procurement is unable to resolve the grievance, the aggrieved party may request the grievance be reviewed and resolved by the City Manager or designee.
7. A request for the City Manager's review must be in writing and received by the Office of Procurement within three (3) business days from the date the Purchasing Division notifies the aggrieved party that the issue(s) cannot be resolved. The request for City Manager review must be delivered in person to the Office of Procurement at the address stated above or by certified mail, return receipt requested, to the mailing address stated above.
8. If the aggrieved party fails or refuses to request a review by the City Manager within the three (3) days, the grievance is deemed finalized and no further review by the city is required.

☐ I have read and agree
(Required: Check if applicable)

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Bid Special Conditions

SPECIAL CONDITIONS

BIDDERS QUALIFICATION:

Each bidder is responsible for submitting all relevant, factual, and correct information at time of the bid submittal. If additional sheets are attached to the bid specification, the bidder must clearly cross-reference the appropriate location in the solicitation (i.e. Section and paragraph Number, Attachment and paragraph number, or Exhibit; page number, subject, etc.). The criteria listed below will be assessed as part of the Post Qualification.

Years of Experience: Bidder shall have a minimum of **three (3)** consecutive years experience in the supply and delivery of goods ,or services to be provided as specified herein.

- A start-up business is defined as a new company that has no previous operational history or expertise in the relevant business and is not affiliated with a company that has the history or expertise (References). Failure to meet this requirement will result in a non-award.

References: Bidder must provide a list of three (3) governmental or commercial references. The bidder shall choose references that illustrate the Bidder's ability, capacity, and skill to perform the contract as specified. Similar shall be understood to mean comparable complexity. For each project, list name, description and location and date of contract completion.

- Bidder may list one (1) previous City of Arlington project that he/she has completed.
- The City reserves the right to inspect any and all known previous locations where services were rendered pursuant to the property owners' expressed permission.

Bankruptcy or Insolvency: If the successful Bidder shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the successful Bidder shall be appointed in any proceeding brought by or against the creditors, or proceedings shall be commenced on or against the successful Bidders' operations of the premises, the City reserves the right to terminate any contractual agreement immediately.

Public Information: Any negative vendor performance or information obtained as public record may be cause for consideration of non-award.

The City of Arlington reserves and shall be free to exercise the right to evaluate bid in relation to performance record of bidder with the City itself, another municipal corporation of like size, or private corporations during the past two-year period.

The City reserves the right to reject a response from a Contractor and/or Sub contractor whose goods and/or services to the City or other government entities have been documented as unsatisfactory in providing the same goods and/or services.

☐ I have read and agree
(Required: Check if applicable)

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Annual Requirments Contract

CONTRACT:

The bid document, as amended by any addendum, must be submitted to the City of Arlington as it conforms to the bid closing date and time, and awarded by the Arlington City Council, shall constitute the contract.

Initial Term of Agreement: Unless otherwise specified, this contract, if awarded, shall be for a period of One (1) year(s) beginning on the date specified in the Award Letter, to be issued by the City's Purchasing Division.

Probationary Period: The first ninety (90) days of each contract term will be considered a "probationary" period. When applicable, at the first City Council meeting following a probationary review, the successful Bidder's contract may be terminated, based on the performance of the Bidder, and a new award be granted without issuing a second solicitation.

Option to Renew: The City and Contractor may, upon mutual written consent not earlier than one hundred twenty days (120) days prior to the expiration of the contract, renew the contract for an additional one-year period, not to exceed two (2) additional, one (1) year renewal options after the initial term. The Awarded Bidder may request a price increase at each renewal time at a rate not to exceed the effective percentage change in the Consumer Price Index (CPI-U) for the previous twelve (12) months.

- At the City's discretion, the effective change rate shall be based on either the local or national index average rate for all items.
- It is the Awarded Bidder's responsibility to request any pricing adjustment under this provision. For any adjustment to commence on the first day of any exercised option period, the request for adjustment should be submitted 90 days prior to expiration of the then current contract term. The adjustment request should not be in excess of the relevant pricing index change. If no adjustment request is received from the vendor, the City will assume that the vendor has agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period may not be considered.
- The City reserves the right to negotiate lower pricing for the additional term(s) based on market research information or other factors that influence price. The City reserves the right to apply any reduction in pricing for the additional term(s) based on the downward movement of the applicable index.
- The City reserves the right to reject any price adjustments submitted by the vendor and/or to not exercise any otherwise available option period based on such price adjustments. Continuation of the contract beyond the initial term, and any option subsequently exercised, is a City prerogative, and not a right of the Awarded Bidder. This prerogative will be exercised only when such continuation is clearly in the best interest of the City.

Option to Extend or Transition of Bidder(s):

In the event that a new Bidder(s) is (are) not selected by the City of Arlington, it shall be incumbent upon the Bidder to continue the contract under the same terms and conditions until new contracts can be completely operational. The transition period extend more than ninety (90) days beyond the original expiration date of the existing contract.

Addition or Deletion:

The City reserves the right to add or remove items as circumstances warrant. The City of Arlington reserves the right to purchase additional units under the terms of this specification.

Cancellation:

The City reserves the right to cancel the contract upon thirty (30) days written notification for failure to supply the required materials or failure to meet delivery schedules, or should funding not be approved by the City Council for any given budget year during the contract term, the contract will terminate and become null and void.

Estimated Quantities:

This is a requirements contract. The quantities listed are based upon the best available data and serve only as a guide and in no way represents an intended or guaranteed amount. The City reserves the right to purchase according to actual need and may or may not meet or exceed the estimated quantities shown.

Order Placement:

Requests for goods and services will be on an as-needed basis by authorized City of Arlington employees only. The City will supply the successful bidder with the names of personnel authorized to place orders. The City shall place written orders electronically or via email in the form of a purchase order or formal Notice to Proceed which will include a purchase order number.

Purchase Orders: It is the sole responsibility of the supplier to acquire a hard copy purchase order authorizing said purchase of goods or services. Supplier must acquired a purchase order prior to placing any orders or purchasing goods, materials on behalf of the City, or performing services for the City. Failure on behalf of the supplier to obtain a purchase order from the City may result in forfeiture of payment due to lack of authorization to purchase goods or services. Verbal orders from City employees are not an acceptable method of authorization. Such verbal orders

shall be forwarded to the Purchasing Manager or designee, as identified herein.

Safety:

All safety precautions and oversight shall be per OSHA and best practice so to meet the requirements of the Specifications and Scope of Work, defined herein. No direct compensation will be made to the Contractor for furnishing, installing, maintaining, and/or the removal of required safety measures, and thus no costs associated with meeting the specifications and scope of work will be paid as a separate line item.

Misconduct:

The City is committed to maintaining an alcohol, drug, and firearm free workplace. Possession or use of firearms, or possession, use of, or being under the influence of alcohol or controlled substances by Contractor's employees or Subcontractors' employees while in the performance of any service(s) or delivery of goods to the City of Arlington, Texas, is strictly prohibited. Violation of this requirement may constitute grounds for immediate cancellation of the Contract. The City reserves the sole right to determine whether this clause is violated, which may be grounds for immediate termination.

Environmental:

The City is committed to purchasing goods, and services from suppliers which can provide the least adverse environmental impact within the constraints of statutory purchasing requirements, departmental needs, availability, and sound economic considerations while protecting health and safety, be fiscally responsible, meet City, State, and Federal mandates, and model environmental stewardship, and encourages proactive measures in employee behavior to reduce mobile source air pollution.

Ordinances:

The City will make a good faith effort to notify the supplier of City ordinances when applicable; however, neither the City nor any of its staff, employees, agents, or representatives are responsible for notifying the contractor(s) of such ordinances. It will be the sole responsibility of the Contractor performing the services to make him/her aware of such City ordinances. All costs, including but not limited to, fines, fees, tickets, or citations becoming due as a result of violating such ordinances will be handled directly between the Court, the issuing department, and the Contractor. Compensation for costs due to violations will not be warranted under this specification or in conjunction with any portion of work as it is associated with this specification. Should it be discovered that an ordinance conflicts with a project, the Contractor shall notify City in writing at once. The City will acknowledge the information via email and may allow an extended work time when ordinance(s) impede schedule.

Public Emergencies:

A Public Emergency shall be defined as, but not limited to, a tornado, flood, hurricane, winter weather, large scale disaster and/or relief thereof which is manmade or natural, or by an act of God shall herein known as "Emergency." It is vital to the citizens and those who seek large scale refuge within the City of Arlington be protected from any such Emergency situation(s) that threatens public health and safety as declared by the City of Arlington; therefore, at any time before, during, or after a public emergency, the City of Arlington may require a "First Priority" for goods and services to be rendered by the awarded Bidder.

The Contractor agrees to rent/sell/lease all goods and service to the City or its governmental entities on a "first priority" basis. The City expects to pay contractual prices for all goods and or services rendered under this awarded Agreement in the event of such Emergency. Should the Bidder provide the City with products and/or services not under this awarded Agreement, the City expects to pay a fair and reasonable price for all products and/or services rendered or contracted in the event of an Emergency.

☐ I have read and agree

(Required: Check if applicable)

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9

Award Criteria

Sealed Bid - Lowest responsive, responsible bid meeting bid specifications. The City reserves the right to make a bid award to either one vendor or to multiple vendors, whichever is in the best interest of the City, or unless otherwise stated on the bid price schedule. If the award is made to multiple vendors, it will be either as one vendor being the primary vendor and the other vendor the secondary vendor, or both vendors awarded jointly.

☐ Have read and agree

(Required: Check if applicable)

2
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Scope of Work Confirmation

I have read and understand the scope of work/specifications of this solicitation.

☐ I have read and agree

(Required: Check if applicable)

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1

Standard Insurance Requirements

Bidder shall include Insurance ACORD Form with their bid submission. This may be done electronically by clicking on the "Response Attachments" tab and clicking on upload.

Bidder here acknowledges that a copy of their company's insurance ACORD Form has been included with this submission.

The Awarded Contractor will not commence work under this contract until he or she has obtained all the insurance required herein and such insurance has been approved by the City, nor shall Contractor allow any subcontractor to commence work on his or her subcontract until all required insurance of the subcontractor has been obtained and submitted to the City.

The successful bidder shall submit evidence of required insurance on an original ACORD certificate or state approved form at time of bid. The bidder will have no longer than fifteen (15) calendar days following notification of award to submit the required Acord form identifying The City as an additional insured to all applicable coverage, including materials, equipment, or supplies provided by the City. Failure to submit the required document(s) may result in rescinding the award. The bid may thereafter be awarded to the next lowest responsible bidder. A current Acord form must be submitted upon policy changes, renewal, or upon request by the City.

An insurance certificate is required to be on file prior to the start of any work.

1. Commercial General Liability: \$1,000,000 per occurrence, \$1,000,000 products/completed operations and \$2,000,000 general aggregate for bodily injury, personal injury and property damage. This policy shall have no coverages removed by exclusions.

2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage should be provided as a "Code 1," any auto, or hired and non-owned vehicles.

3. Workers' Compensation and Employers' Liability: Statutory. Employers Liability policy limits of \$1,000,000 for each accident, \$1,000,000 policy limit – Disease, \$1,000,000 each employee disease.

4. Umbrella or Excess Liability: \$2,000,000.00 per occurrence and aggregate.

Other Insurance Provisions

1. The City, its officials, employees and volunteers shall be named as an additional insured with waiver of subrogation in the favor of the City on the Commercial General Liability and Automobile Liability Insurance policies. These insurance policies shall contain the appropriate additional insured endorsement signed by a person authorized by that insurer to bind coverage on its behalf.

2. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage, materially changed, or in limits except after thirty (30) days prior written notice has been provided to the City. If the policy is cancelled for non-payment of premium, only ten (10) days notice is required.

3. Insurance is to be placed with insurers with a Best rating of no less than A:VII. The company must also be duly authorized to transact business in the State of Texas.

4. Workers' Compensation and Employers' Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from the activities under this contract.

5. Certificates of Insurance and Endorsements effecting coverage required by this clause shall be forwarded to:

City of Arlington
Purchasing Division
P. O. Box 90231
Arlington, Texas 76004-3231

6. Workers' Compensation Insurance Coverage:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83 or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - Includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in Section 406.096) - Includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries and delivery of portable toilets.

The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project

The contractor must provide a certificate of coverage to the City prior to beginning work on the contract.

If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.

The contractor shall obtain from each person providing services on a project, and provide to the City

☐ I have read and agree
(Required: Check if applicable)

2
2

Company Name:

(Required: Maximum 1000 characters allowed)

2
3

Local Address:

(Required: Maximum 1000 characters allowed)

2
4

Phone

(____) _____ - _____ ext: _____
(Required)

2
5**Email:***(Required: Email address)*2
6**Primary Point of Contact responsible for work performed under this contract:**

*(Required: Maximum 1000 characters allowed)*2
7**Years in Business:***(Required: Numbers only)*2
8**Years of Experience performing this type of work:***(Required: Numbers only)*2
9**Has your business operated under any other names?**☐ Yes ☐ No*(Required: Check only one)*3
0**If yes, what names:**

Explain the circumstances of the change:

*(Optional: Maximum 1000 characters allowed)*3
1**Total Value of work currently under contract:***(Required: Numbers only)*3
2**Total Value of work in place within the past 12 months:***(Optional: Numbers only)*3
3**Percentage of work self-performed on this contract:** %*(Required)*3
4**References**

The vendor shall provide information regarding previous work comparable with the proposed work in size, capacity, and complexity. List 3 projects similar to size and scope which were completed during the past three (3) years. The City may also consider any previous City projects. Following the submission, each vendor shall be prepared to furnish such additional information as the City may reasonably request regarding vendors equipment and personnel. The information provided shall constitute an integral part of this response.

3 5	Reference 1 REFERENCE 1
3 6	Reference #1 Contact Person's Name (Required: Maximum 1000 characters allowed)
3 7	Reference #1 Contact Person's Place of Business (Required: Maximum 1000 characters allowed)
3 8	Reference #1 Address: Street, City, State, Zip Code (Required: Maximum 1000 characters allowed)
3 9	Reference #1 Phone Number () - - - - - ext: (Required)
4 0	Reference #1 Email (Required: Email address)
4 1	Contract Information Contract Information
4 2	Contract Amount Enter the total amount of the contract for which you are providing a reference. \$ (Required: Numbers only)
4 3	Contract Completion Select the date the contract was completed. / / (Required)

4 4	Contract Work Description Provide a description of the work completed. (Required: Maximum 4000 characters allowed)
4 5	Reference 2 REFERENCE 2
4 6	Reference #2 Contact Person's Name (Required: Maximum 1000 characters allowed)
4 7	Reference #2 Contact Person's Place of Business (Required: Maximum 1000 characters allowed)
4 8	Reference #2 Address: Street, City, State, Zip Code (Required: Maximum 1000 characters allowed)
4 9	Reference #2 Phone Number () - ext: (Required)
5 0	Reference #2 Email (Required: Email address)
5 1	Contract Information Contract Information
5 2	Contract Amount Enter the total amount of the contract for which you are providing a reference. \$ (Required: Numbers only)

5
3**Contract Completion**

Select the date the contract was completed.

(Required)

5
4**Contract Work Description**

Provide a description of the work completed.

(Required: Maximum 4000 characters allowed)

5
5**Reference 3****REFERENCE 3**5
6**Reference #3 Contact Person's Name**

(Required: Maximum 1000 characters allowed)

5
7**Reference #3 Contact Person's Place of Business**

(Required: Maximum 1000 characters allowed)

5
8**Reference #3 Address: Street, City, State, Zip Code**

(Required: Maximum 1000 characters allowed)

5
9**Reference #3 Phone Number** (____) ____ - ____ ext:

(Required)

6
0**Reference #3 Email**

(Required: Email address)

6
1**Contract Information****Contract Information**

6
2**Contract Amount**

Enter the total amount of the contract for which you are providing a reference.

\$

(Required: Numbers only)

6
3**Contract Completion**

Select the date the contract was completed.

____/____/____

(Required)

6
4**Contract Work Description**

Provide a description of the work completed.

(Required: Maximum 4000 characters allowed)

6
5**Cooperative Purchasing:**

Should other Government Entities decide to participate in this contract, would you agree that all terms, conditions, specifications, and pricing would apply?

☐ Yes ☐ No

(Required: Check only one)

Bid Lines

1

PHPM-50 for potholes

Quantity: 7000 UOM: Gallon

Price: \$

Total: \$

Supplier Notes: _____

☐ No bid☐ Additional notes
(Attach separate sheet)

Supplier Information

Company Name:

Contact Name:

Address:

Phone:

Fax:

Email:

Supplier Notes

This quote shall remain in effect for ninety (90) days from quote opening and shall be exclusive of federal excise and state and local sales tax (exempt).

The undersigned agrees they are authorized to furnish any and all items upon which prices are offered, at the price and upon the terms and conditions contained in the Invitation for Quote, Conditions of Bidding, Terms of Contract, and Specifications and all other items made a part of the accepted contract.

By entering your name in the field provided, you signify that you are accepting the terms and conditions of this quote and your typed name will serve as your electronic digital signature. You also certify that if a Texas address is listed, you qualify as a Texas resident bidder as defined in Rule 1 TAC 111.2.

Print Name

Signature