

INVITATION TO BID

Sealed bids addressed to the City Manager of the City of Seguin, Texas will be received at the Seguin City Hall, 205 North River, Seguin, Texas 78155, until **2:30 P.M., May 10, 2016** for the purchase and installation of an Animal Crematory. The bids will be publicly opened and read aloud at the Seguin City Hall at 3:00 p.m. Bid specifications are available on the City website at www.seguintexas.gov/bid_opportunities or by request to the City Purchasing Department. Bids shall be submitted in a sealed envelope (8 1/2" x 11" minimum), clearly marked as follows:

SEALED BIDS

Purchase of Animal Crematory

Bid No. TF-2016-31

To be opened at 3:00 p.m., Tuesday, May 10, 2016

The City of Seguin reserves the right to reject any or all bids and to waive informalities. No bid may be withdrawn within sixty (60) days after the date on which bids are received.

Douglas G. Faseler, City Manager
CITY OF SEGUIN, TEXAS

SPECIFICATIONS

1. SCOPE AND INTENT

The City of Seguin is requesting bids for the purchase and set-up of one (1) Animal Incinerator/Crematory System for the City's new Animal Services Facility under construction at 555 Fred Byrd Dr. in Seguin, Texas.

It is the intent of these specifications to provide bidders with specific information and data necessary to prepare and submit a bid. The equipment to be purchased under this bid shall be new and unused.

The specifications described in this solicitation are based on one (1) Therm-Tec Model S-27-T top load animal incineration system as manufactured by Therm-Tec, Inc. of Sherwood, Oregon and is considered to be the minimum bid specifications. The City will accept bids that exceed the minimum specifications and allow substitution of a brand which has all the essential performance, size, features, reliability, and other prominent characteristics as the brand and model stated herein. The City reserves the right to make the final determination if a substitute item is equal, acceptable, and/or suitable for the City's purposes.

2. DESCRIPTION OF WORK

The new Animal Services Facility is being constructed by a General Contractor. The City desires to purchase the animal incinerator/crematory system and to have it delivered to the job site for installation coordinated by the General Contractor with set-up, testing, and training by the incinerator supplier.

3. REGULATORY REQUIREMENTS

- A. The entire incinerator installation shall comply fully with requirements of all applicable Federal, State, and local laws, codes and ordinances.
- B. All work must comply with all applicable requirements of the National Fire Protection Association (NFPA), and Occupational Safety and Health Act (OSHA), the Uniform Plumbing Code, the U.S. Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), City of Seguin, TX and carry a UL #508 label or better.
- C. Vendor to complete TCEQ permit application and guarantee compliance with local, state and federal regulations.

4. EXCEPTIONS

If Bidder takes exceptions to any provisions of the specifications, the exceptions must be specifically and clearly identified by section in Bidder's response, and Bidder's proposed alternative must also be provided in the bid. Bidders cannot take a 'blanket exception' to the entire bid document.

5. DELIVERY

Number of days required to deliver the equipment after receiving a purchase order should be stated in the bid. Delivery will be made F.O.B. DESTINATION to the City of Seguin, Animal Services Facility, 555 Fred Byrd Drive, Seguin, Texas.

All deliveries must be pre-arranged with a minimum 72-hour notification to allow sufficient General Contractor coordination.

6. INSPECTION AND ACCEPTANCE

The City will inspect and accept delivery made under this contract, or may reject any goods which are damaged or which do not conform to specifications.

7. DELAY IN DELIVERY

When delay can be foreseen, Bidder shall give prior notice to City of Seguin. Bidder must keep City of Seguin advised at all times of status of order. Default in promised delivery (without acceptable reasons) or failure to meet specifications, authorizes the City of Seguin to purchase such equipment elsewhere and charge increase in cost and handling to defaulting vendor. Acceptable reasons for delayed delivery are: acts of God (floods, tornadoes, hurricanes, etc.), acts of government, fire, strikes, war, actions beyond the control of the successful bidder.

8. ORDER AND INVOICING

- A. All equipment will be ordered by the City of Seguin Purchasing Office using a Purchase Order.
- B. Invoices shall be delivered with equipment. Payments will be processed within thirty (30) days of receipt of invoice and goods are accepted. Invoices must be itemized and must reference the City of Seguin Purchase Order number.

9. PREPARATION OF BID

- A. The Bid Form must be completed providing the full firm name and address of respondent and be manually signed. The person signing the proposal must show title or authority to bind his/her firm in a contract. Firm name and authorized signature must appear on each page that calls for this information. *Failure to provide complete information requested may result in disqualification of bid.*
- B. Failure to utilize the Bid Form(s) may result in disqualification. All spaces are to be completed.
- C. Questions related to this bid should be directed in writing to Twila Wood, Purchasing Manager via e-mail at twood@seguintexas.gov
- D. **Bids are due no later than 2:30 PM, Tuesday, May 10, 2016. Sealed Bids must be delivered to City Hall, 205 North River, Seguin, Texas 78155 by that time. No faxes or e-mail bids are allowed for this solicitation. Envelopes must be clearly marked with Bid Name, Bid Number and Time of Bid Opening.**
- E. **Complete specifications shall be submitted for the unit proposed in the bid documents.**

TECHNICAL SPECIFICATIONS

PART 1 – GENERAL

1.1 BASIS

- A. This specification is based on one (1) **Therm-Tec Model S-27-T** top load animal incineration system as manufactured by Therm-Tec, Inc. of Sherwood, Oregon.
- B. Qualified manufacturers of a unit that meets or exceeds these requirements may be quoted, subject to provisions contained herein.
- C. Incinerator shall conform to all Federal, State, and Local codes and regulations.

1.2 SUBMITTALS

- A. General:
Submit manufacturer's catalog cuts, specifications, installation instructions, and dimensioned drawings for equipment specified.
- B. Shop Drawings:
 - 1. Show equipment, required factory external piping and connections, accessories and trim, and sequence of operation required for complete system operation.
 - 2. Show space required for incinerator operation.
 - 3. Provide complete wiring diagrams required for system operation and maintenance.
 - 4. Provide spare parts list.
- C. Certification:
 - 1. Successful demonstration of certified emissions test reports on similar size units must be provided at time of Bid Documentation.
 - 2. Submit manufacturer's certificate that incinerator meets requirements herein specified.
 - 3. Guarantee compliance with all applicable tests and regulations at time of installation. If emission stack test is required, test will be responsibility of owner.

1.3 QUALITY ASSURANCE

- A. The manufacturer shall provide the owner with a one-year warranty. The manufacturer shall replace any equipment, assembly or part that fails due to defective material or workmanship during the warranty period.

1.4 MANUFACTURER'S OR SUPPLIER'S RESPONSIBILITY

- A. Supervise installation of new incinerator.
- B. Dry and cure refractory lining, conduct personnel training, and conduct a trial burn in the incinerator with a batch load of 450 lbs. of carcass with a complete burn out to white ash within 6 hours. During trial burn unit will operate within visible emissions limits and have no grease discharge.

- C. Provide 1-piece roof flashing and 1-piece stack counter flashing (20 ga. galvanized steel).
- D. Train and instruct an operator and one alternate in operation, maintenance, etc.
- E. Provide incinerator permit forms and required technical information to Owner for submittal to TCEQ.

1.5 PERFORMANCE

The incinerator system shall have the capacity of destroying a load of approximately 450 lbs., type IV waste (small animal carcass) per 5-6 hour burn with a minimum refuse weight reduction of 95%. It must do so without emitting any objectionable smoke, odor, or fly ash. Complete calculations showing the estimated BTU inputs, combustion air requirements, volume of products of combustion, interflow, and gas velocity shall be submitted with drawings for Air Pollution approval. Incinerator shall not leak grease or fluids onto pad during burn cycle.

1.6 QUALIFICATIONS OF FABRICATOR

- A. The manufacturer of the incineration equipment shall have a minimum of ten years of experience in the construction and design of controlled air batch load incineration equipment.
- B. Manufacturer shall provide a user list of similar size and type equipment previously installed.

1.7 FOLLOW-UP SERVICE One year following start-up, successful bidder shall perform an on-site visit, at no charge, to service and fine tune equipment.

1.8 OWNER'S RESPONSIBILITIES:

- 1. TCEQ incinerator permit fees.
- 2. Adequate concrete pad, weather shelter, gas and electric service to unit.
- 3. Equipment and labor to unload equipment, set in place and install stack sections.

PART 2 – PRODUCTS

2.1 INCINERATOR

- A. The incinerator system shall be pre-tested, pre-plumbed, and pre-wired at the factory to minimize field assembly. The incinerator shall meet and comply with all pertinent air quality standards as required by the U.S. EPA, and TCEQ.
- B. **Type of Unit:** The incinerator shall be of the controlled atmosphere design, consisting of a refuse chamber with ash cleanout door, control chamber, controls, burners, and refractory lined stacks. Burners shall be designed for natural gas. Unit shall be **Therm-Tec, Inc. Model S-27-T** or approved equal.
- C. **Stack Sections:** The stack sections provided with the incinerator shall consist of two (2) - 6' and one (1) - 2' sections providing a minimum discharge at 20'-8" above pad. The stack

sections shall be flanged top and bottom with standard welded angle ring to provide integrity and ease of assembly. The stack shall be 12" I.D. X 18" O.D.

- D. **Roof Penetration Flashings:** 1-piece roof flashing and 1-piece stack counter flashing will be provided to make stack opening through roof weather tight. Construction shall be 20 Ga. Galvanized steel. City will provide suitable framed in roof opening (27" x 27").
 - E. **Stoking Tools:** A complete set of stoking tools shall be furnished with the incinerator. They should consist of a stainless steel clean-out brush, shovel, and air tuyere cleaning rod.
 - F. **Operating and Maintenance Manuals:** . A complete manual of operating instructions and maintenance manual shall be furnished. The model number, serial number, and date of installation and capacity shall be posted with operating instructions etched on plaques firmly attached to the unit.
 - G. **Utility Requirements:**
 - 1. Electrical: 30 amp, 115 volt, 1 phase, 60 Hz.
 - 2. Fuel: Natural gas, 1,000 cu.ft./hr. @ 2-5 lbs. pressure to a single point connection on incinerator gas regulator inlet.
 - H. **Internal Volumes:**
 - Main (lower) chamber – approx. 29 cu. Ft.
 - Secondary (upper) chamber – approx. 6.30 cu. Ft.
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BID FORM
Bid #TF-2016-31
DUE DATE: May 10, 2016 at 2:30 PM

INCINERATOR / ANIMAL CREMATORY

Incinerator Manufacturer: _____

Incinerator type/model _____

*****INCLUDE COMPLETE SPECIFICATIONS FOR THE UNIT BEING PROPOSED*****

Base Equipment \$ _____

Optional flashing kit for stack penetration through roof \$ _____

Freight \$ _____

On-site installation and start-up service \$ _____

TCEQ permit application technical service \$ _____

1-year call back service \$ _____

TOTAL BID: \$ _____

Number of days for delivery following receipt of purchase order: _____

Receipt is hereby acknowledged of the following Addenda to the Specifications:

ADDENDUM NO. 1 DATED _____ ADDENDUM NO. 2 DATED _____

ADDENDUM NO. 3 DATED _____ ADDENDUM NO. 4 DATED _____

The Undersigned affirms that it is duly authorized to submit this bid, that this bid has not been prepared in collusion with any other bidder, and that the content of this bid as to prices, terms, or conditions of said bid has not been communicated to any other bidder prior to the official opening of this bid.

Company Name

Authorized Signature

Address

Printed Name

City, State, Zip Code

Title

Phone No.

Fax No.

Date

Email Address: _____

**BID FORM
(continued)
Bid #TF-2016-31**

CERTIFICATE OF CORPORATE BIDDER

I, _____, certify that I am
_____ (title)

Of the corporation named as Bidder herein; that _____ who
signed

this bid on behalf of the Bidder, was then _____ (title) of said
corporation;

that said bid was duly signed for and on behalf of said corporation by authority of its governing body
and is
within the scope of its corporate powers.

Signature of Officer: _____

Type or Print Name: _____

Title of Officer: _____

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

 Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

GENERAL CONDITIONS OF BIDDING

These general conditions apply to any procurement of products or services by the City of Seguin. Failure to comply with these General Conditions of Bidding may result in the bid being disqualified.

1. DEFINITION OF TERMS

A. "Bid documents" mean the entire packet of documents provided to bidders, including, but not limited to the General Conditions of Bidding, General and/or Technical Specifications, Special and Supplementary Conditions, Information to Bidders, Bid Form(s) and any Addendum.

B. "Bidder" means a person or firm submitting a bid, proposal, or quote to provide equipment, material, and/or services necessary in the performance of these specifications, and competing for award of a contract.

C. "Bid" or "Proposal" means an offer to perform or provide the requirements specified herein. "Furnish" or "provide" means to supply, equip, and deliver the specified equipment, material and/or services to the Purchaser.

D. "Formal Bid" is a formally advertised solicitation for acquiring goods, services, and construction that requires a public opening of sealed bids or proposals, generally \$50,000 or more.

E. "Informal Bid" is a competitive bid or price quotation for supplies or services under \$50,000 that is conveyed by letter, telephone, or other means and does not require a sealed bid, public opening, or public reading of bids.

F. "City", "Purchaser", or "Owner" shall refer to the City of Seguin, PO Box 591, Seguin, Texas 78156-0591.

G. "Contract" means the contract awarded pursuant to this solicitation.

H. "Contractor" or "Vendor" means the bidder to which a contract award has been made by the City.

I. "Purchase Order" means the document issued by the City that creates a legal binding contract between the City and the Contractor and authorizes the Contractor to ship goods pursuant to the contract.

2. SUBMISSION OF BIDS

A. All bids must be on blank forms furnished by the Purchasing Department and must be written in ink or typed. Pencil quotations will not be considered. Proposals must be submitted on the forms or in the format called for in specifications. Each must be executed personally by the bidder, or if executed by an agent, a power of attorney or other evidence of his authority to act on behalf of the bidder must accompany the bid. If the bidder is a corporation, the certificate of corporate bidder must be executed under the corporate seal by some duly authorized officer of the corporation other than the officers signing the bid. By execution of the bid, the bidder accepts all general and special conditions of the contract and the specifications.

B. **Formal** sealed bids and proposals must be received at the date, time, and place specified in the bid document packaged in a sealed envelope (8 1/2" x 11" minimum) clearly marked with the bid or project name, bid number, and date/time of opening, unless otherwise specified. An early postmark will not suffice. Bids and proposals will be publicly opened and read followed by evaluation and award at a later

date. **Formal bids and proposals (\$50,000 or higher) may NOT be faxed or submitted via e-mail.**

C. Informal bids are due at the date, time, and place stated in the bid document. **Informal bids (less than \$50,000) may be faxed or submitted via e-mail.**

D. Each Bidder agrees that its price will remain firm and subject to acceptance by the City for a period of sixty (60) calendar days from the bid opening date. The prices quoted in the bid shall not be subject to escalation except where otherwise clearly indicated by the Bidder or by the City in bid documents. The basis for the escalation shall be clearly indicated in either case.

E. All information required by the bid documents will be furnished. The bidder will print or type its name, in ink, and manually sign the bid sheet. The bid sheet, with original signatures, must be submitted.

F. All prices shall be quoted as required in the specifications. Unit prices will be shown when called for on the bid sheet, and where there is a conflict between the unit price show and the total price shown, the unit price will govern.

G. No change in price will be considered after bids have been opened. The City reserves the right to negotiate prices as submitted by proposal as allowed by state statute.

H. In case of ambiguity or lack of clarity in stating prices in the bid, Purchaser reserves the right to adopt the price written in words or reject the bid. Any ambiguity in the bid as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of the City.

I. If this bid is altered, any erasure or alteration of figures on the item on which the erasure or alteration is made must be initialed by signee of this bid.

J. The City reserves the right to extend the bid closing time and date. Notification will be made by addendum.

K. The City reserves the right to increase or decrease the quantity specified, unless the bidder specified otherwise.

3. WITHDRAWAL OF BIDS

A. A Bidder may withdraw a bid before Council acceptance of the bid without prejudice to himself by a written request addressed to the Purchasing Manager.

B. If there is an honest mistake in the bid, due to clerical errors, and the bidder calls attention thereto promptly, the bidder will not be bound by the bid.

C. When the mistake was a result of a bidder's negligence, and City has no knowledge of the mistake when bids were opened, and awarded a contract based on the bid, bidder will not be released and shall be bound by the bid.

D. If a mistake is not discoverable and verifiable by the City, bidder's incorrect interpretation of Engineering specifications set forth in a construction contract will not release him from his obligations, once a contract has been awarded by City Council and bidder has received notice of such award.

4. GENERAL CONDITIONS

Bidders will submit their bids or proposals upon the following express conditions:

A. Bidders shall thoroughly examine all drawings, specifications, plans, schedules, instructions, and all other contract documents pertaining to this bid.

B. Bidders shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of materials or equipment as required by the bid conditions. No plea of ignorance by the Bidder of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the Bidder to make the necessary examinations and investigations will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.

C. If any bidder is in doubt as to the true meaning of the specifications, other bid documents, or any part thereof, they may submit a written request for clarification to the Purchasing Manager. A request for clarification should be submitted by the deadline, if any, indicated in the specifications.

D. All materials, equipment, supplies which are new, non-standard to the City of Seguin, and/or items which are to be listed as an alternate or exception must be pre-approved PRIOR to placing them on a bid proposal. In order to fairly evaluate all bids, sufficient time requirements for possible field testing or demonstrations should be allowed.

E. Bidders are advised that City contracts are subject to all legal requirements under Local, State and Federal statutes, ordinances, and regulations. Any bid, after being opened, becomes subject to the Public Information Act, Government Code Chapter 552; therefore bidders must clearly indicate any portion of the submitted bid that the bidder claims is not subject to public inspection under the Public Information Act.

F. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City of any materials, supplies or services, except on behalf of the City as an officer or employee.

G. The City of Seguin is committed to maintaining fair and open competition as required by local, state, and federal laws and statutes. Every effort is made to maintain the highest level of ethical conduct in every aspect of the procurement process. Sharp business practices or high-pressure tactics will not be tolerated. Qualification and selection of vendors is based on those vendors who share the same high standards of ethical conduct.

5. DESCRIPTION OF GOODS

A. Any catalog or manufacturer's reference in this bid is merely descriptive, and not restrictive, unless otherwise noted, and is used only to indicate type and quality of material. Any such references are made a part of these contract documents as if incorporated verbatim herein.

B. The term "Or Equal", if used, is intended to allow substitution of a brand which has all the essential performance, features, reliability, and other salient characteristics as the brand name and model stated in the item description. "Or Equal" is intended to establish a level of quality and function and is not to be interpreted as a preference for a particular brand. Other brands meeting these minimum requirements will be accepted. Bid submitted on an "Or Equal" item must clearly identify the proposed product, the quantity of the product, model, and type, as applicable.

C. Alternate bids will not be considered unless expressly authorized by the bid documents.

6. PREPARATION OF BID

Bidders will prepare bids in accordance with the following:

A. Specifications are written to encourage competition. The specifications herein shall be the basis of comparison between bidders. There is no intent to discriminate against any supplier or vendor but rather, to set a definite standard of performance. Bidders are required to quote services and/or equipment that will meet or exceed the minimum or maximum specifications herein.

B. Any omission in the specifications of any minor requirement necessary to make each unit complete and functional shall not relieve the Supplier of responsibility to furnish any material or equipment necessary.

C. The City reserves the right to request clarification to assist in evaluating the bidder's response when the bid response is unclear with respect to product pricing, packaging or other factors. The information provided is not intended to change the bid response in any fashion and such information must be provided within two days from request.

D. Bidders shall not include federal taxes nor State of Texas limited sales, excise and use taxes in bid prices since the City of Seguin is exempt from payment of such taxes under section 151.309 of the Texas Tax Code.

E. By submitting a bid, each bidder certifies that it is a duly qualified, capable, and bondable business entity, that it is not in or contemplating bankruptcy or receivership and that it is not currently delinquent with respect to payment of taxes assessed by any political subdivision.

F. By submitting a bid, each bidder certifies that it does not currently owe any money to the City.

G. The City is exempt from the Federal Excise and Transportation Tax, and the Limited Sales and Use Tax. Unless the bid form or specification specifically indicates otherwise, the price bid must be net exclusive of the above mentioned taxes, and will be so construed.

H. Prompt payment discounts will not be considered in determining low bids and making awards.

7. BID DEPOSIT

No bid deposit will be expected of bidder UNLESS specifications expressly provide otherwise. If a bid bond is required, the submitted bond may be in the form of a cashier's check, cash, a certified check made payable to the City of Seguin or an original bond submitted in the form required by the City in the Bid Documents. The bond shall be executed by a surety authorized by the Texas State Insurance Commission and must be signed by both the surety and the bidder. Should a bid deposit be presented in a form not acceptable to the City, the bid will not be considered.

8. EXCEPTIONS

If Bidder takes exceptions to any provisions of the specifications, the exceptions must be specifically and clearly identified by section in Bidder's bid, and Bidder's proposed alternative must also be provided in the bid. Bidders cannot take a 'blanket exception' to the entire bid document.

9. ADDENDA

Any clarification or interpretation of the bid, if made, will be made only by written addendum issued through the Purchasing Department and signed by the City of Seguin Purchasing Manager. A copy of such Addendum will be mailed or delivered to each person receiving bids. Addenda to the bid documents may be issued in response to a request for clarification or objection, or for any other reason the City considers advisable. Once issued, an addendum becomes a part of the bid documents. All addenda can be viewed and downloaded at the City's website: www.seguintexas.gov. It is the bidder's responsibility to check this site to determine if the City has issued any addenda. The City will not be

responsible for any other explanation or interpretation of the bid made or given prior to the award of the contract.

10. REJECTION OF BIDS

A. The City of Seguin reserves the right to accept or reject any or all bids, and to waive any informalities and technicalities. The City of Seguin shall consider all factors it believes to be relevant in selecting the offer that provides the best value for the City including, but not limited to, the offered price. Causes for bidder disqualification and rejection of bids may include, but shall not be limited to:

- 1.** Bidder's current inability to satisfactorily perform the work or service, or the bidder's previous failure to properly and timely perform its obligations under a contract with the City. Purchaser may make such investigation as is deemed necessary to determine the ability of the Bidder to provide the equipment, material, and/or services as required by this specification and to determine the adequacy of the proposed equipment, material, and/or services. The Bidder shall furnish, upon request, all such data and information requested for this purpose. The information provided is not intended to change the bid response in any fashion and such information must be provided within **two** days from request.
- 2.** Bidder's current violation of any City ordinance.
- 3.** Bidder's misstatement or concealment of any material fact in the bid.
- 4.** Bid or proposal's nonconformance to law or the requirements of the bid specifications.
- 5.** Failure to use or properly complete the bid/proposal form furnished by the City of Seguin.
- 6.** Lack of signature by an authorized representative on the proposal form.
- 7.** Alteration of bid form.
- 8.** Evidence of collusion among proposers.
- 9.** Omission of proposal guarantee (if required).
- 10.** In the event that a bidder is, or subsequently becomes, delinquent in the payment of his, her or its City taxes, including state and local sales taxes, or any other City financial obligation, such fact shall constitute grounds for rejection of the bid, or if awarded the bid, for cancellation of the contract.

11. AWARD

A. The City reserves the right to award a bid or contract to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the City. Factors to be considered in the evaluation of the bids are price, quality, reputation and experience of Bidder, past relationship with City, long term cost, safety record, operating history of equipment, conformance to specifications, delivery, and other factors as deemed appropriate by the Purchaser.

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

C. The City reserves the right to reject or accept all or any combination of base bid plus alternative bids when alternate bids are called for in bid documents, subject to available funding.

D. Contractor is an independent contractor. Award of a contract does not create a joint venture between the Contractor and the City.

12. CONTRACT

A. City's Bid Documents combined with the Vendor's response (bid or proposal) submitted to and accepted by the City, constitutes a contract between the City of Seguin and the selected vendor at the time the Seguin City Council awards the contract to such vendor.

B. No further documentation is required, although the contracting parties may supplement the

contract with further documentation. By submitting a bid or proposal, the vendor agrees to comply with the Terms and Conditions and other requirements set forth in the Bid Documents and to be further bound to the representations and information the vendor provides in the response.

C. Acceptance of bidder's offer may be in the form of a "Notice of Award", a Purchase Order (P.O.) or a "Contract".

13. RESERVATIONS

THE CITY EXPRESSLY RESERVES THE RIGHT TO ACCEPT, REJECT OR CANCEL ANY AND ALL BIDS and:

A. Waive any defect, irregularity, or informality in any bid or bidding procedure;

B. Reissue a bid invitation or proposal;

C. Procure any item by other allowable means;

D. Waive minor deviations from the specifications when a bid meets the intent of the specifications and consider such bid if it is determined the bid's total cost is lower, the purpose for the bid is improved or not impaired, the bid amounts to the best value for the City, and/or the waiver otherwise results in a measurable benefit on behalf of the City.

E. Extend any contract when most advantageous to the City as provided by original contract conditions.

14. WARRANTIES

A. WARRANTY FOR PRODUCT: The Contractor warrants to the City that all goods delivered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, will be of merchantable quality, good workmanship, free from defects, and fit for all purposes specified in this contract. The Contractor shall not Limit or exclude any implied warranties, and any attempt to do so shall render this contract voidable at the option of the City. The Contractor will provide copies of applicable warranties or guarantees to the Purchasing Manager. The City may return goods not meeting applicable warranties to the Contractor at the Contractor's expense.

B. WARRANTY FOR PRICE: The City will pay the price for goods specified by the Contractor's bid. The Contractor warrants its price to be no higher than the Contractor's current prices or charges on orders by others for products or services of the kind and specification covered by this bid contract for similar quantities under similar or like conditions and methods of purchase. In the event Contractor breaches this warranty, the prices or charges shall be reduced to Contractor's current prices or charges on orders by others, or in the alternative, City may cancel this contract without liability to Contractor for breach or Contractor's actual expense.

C. SAFETY WARRANTY: Contractor warrants that the goods sold to the City conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA) as amended. In the event the goods do not so conform, the Contractor must correct or replace the goods at the Contractor's expense. If the Contractor fails to do so within a reasonable time, the City, at its discretion, may cause the correction to be made at the Contractor's expense, or may return the goods at the Contractor's expense and terminate this contract.

15. PROTESTS

A. The City Council is the final authority on issues relating to this contract. The Purchasing Manager is the City's representative in the award and administration of this contract, and will issue and receive

all documents, notices, and correspondence.

B. Any protest to the City's consideration of any bid must be submitted in writing and delivered to the City of Seguin, ATTN: Purchasing Manager.

C. The protest may be delivered in person to the Purchasing office located at 816 Fred Byrd Drive, Seguin, Texas, or by certified mail, return receipt requested, to the following address: City of Seguin, Purchasing Department, ATTN: Purchasing Manager, PO Box 591, Seguin, Texas 78156-0591.

D. The written protest must include the following information before it may be considered by the City:

- 1.** Name, mailing address, and business phone number of the protesting party;
- 2.** Identification of the bid or proposal being protested;
- 3.** A precise and concise statement of the reason/reasons for the protest which should provide enough factual information to enable the City to determine the basis of the protest;
- 4.** Any documentation or other evidence supporting the protest.

E. The Purchasing Department, in conjunction with the department responsible for the bid or proposal solicitation, will attempt to resolve the protest, including, at the City's option, meeting with the protesting party. If the protest is successfully resolved by mutual agreement, written verification of the resolution of each ground addressed in the protest will be provided to the City Manager. If the Purchasing Department is unable to resolve the protest, the protesting party may request the protest be reviewed and resolved by the City Manager.

F. A request for the City Manager's review must be in writing and received by the Purchasing Department within three (3) business days from the date the Purchasing Department informs the protesting party the protest cannot be resolved. The request for review must be delivered in person to the Purchasing Department at the address stated above or by certified mail, return receipt requested, to the mailing address stated above. If the protesting party fails or refuses to request a review by the City Manager within the three (3) days, the protest is deemed finalized and no further review by the City is required. Applicable documentation and other information applying to the protest may be submitted by the protesting party to the Purchasing Department before review by the City Manager. If the protesting party requests a review by the City Manager, such documentation will be forwarded to the City Manager for consideration. The City Manager may likewise notify the protesting party or any City department to provide additional information.

G. The decision reached by the City Manager will be final, but the protesting party may still appear before the City Council during the hearing of citizens' session.

16. SHIPMENT & DELIVERY

A. Bidder is to quote its lowest and best price F.O.B. Destination on each item to shipping location in Seguin, Texas unless otherwise specified in the bid documents. Pricing shall include packaging, transportation, unloading, and any trade and cash discounts, which may be taken if earned.

B. The bidder certifies all materials, parts, and equipment supplied or represented in response to this bid shall be new and unused unless noted elsewhere in the bid documents.

C. The title and risk of loss of the goods will not pass to the City until receipt and acceptance takes place at the FOB point. The City department receiving deliveries or issuing purchase orders under this contract will inspect and accept any and all deliveries made and may reject those items which are

damaged or which do not conform to the specifications. The Contractor is responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries at no additional cost.

D. Delivery dates pertaining to this specification must be clearly stated in the bid form where required. The bidder will clearly state in the bid the time required for delivery upon receipt of contract or purchase order. Failure to specify delivery date or state unrealistically short or long delivery dates may cause the bid to be disqualified. Proposed delivery time must be specific and such phrases “as required”, “as soon as possible”, or “prompt” may result in disqualification of the bid.

E. Vendor must keep the City advised as to the status of the delivery. When delivery delay can be foreseen, the Vendor shall give prior notice to the City.

F. Default in promised delivery, without acceptable reasons, or failure to meet specifications without remedy shall cause the City to purchase the goods elsewhere, and charge any increase in cost and handling to the defaulting vendor. This does not limit any other remedies to the City for damage entitled under the Uniform Commercial Code.

17. REJECTIONS

A. Delivered articles not in accordance with samples and specifications must be removed by the bidder at his expense. All disputes concerning quality of supplies delivered under this proposal will be determined by the City’s Purchasing Manager or his/her designated representative.

B. All articles enumerated in the proposal shall be subject to inspection or 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 reported to the Purchasing Manager who shall have the right to reject the whole or any part of the same.

18. PAYMENTS

A. Payment of invoices by the City shall be made thirty (30) days after receipt and acceptance of all equipment or performance of services covered by each purchase order or following the receipt of an accurate invoice, whichever is later, in compliance with state statute. Bidder shall state his bid in accordance with the standard payment terms and conditions of the City of Seguin of Net 30 days. All bids must be stated in terms of dollars and cents, the bidder’s lowest, best, and final price.

B. Invoices submitted or otherwise used pursuant to the bid awarded under this IFB shall be presented to the City in the following form and content:

1. Each invoice must reference the City of Seguin contract, agreement, or P.O. number;
2. Only one contract, agreement, or project shall be billed on a particular invoice;
3. Each invoice must have a billing or invoice number and an Invoice Total.

C. The invoice requirements stated herein shall not be read to disallow or exclude other information that may be otherwise required or requested by the City. Such information required herein must be submitted only on an invoice and not in any other non-invoice form or document.

19. ASSIGNMENT

No right or interest in the contract shall be assigned, nor delegation of any obligation made by Vendor without the written permission of the City. Any attempted assignment or delegation by Vendor shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

20. WAIVER

No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

21. FORCE MAJEURE

In the event that the performance by either party of any of its obligations under this contract is interrupted or delayed by events outside of their control such as acts of God, war, riot, or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of the events.

22. GRATUITIES

The City may, by written notice to the Vendor, cancel this contract without liability to the City if it is determined by the City that gratuities have been offered to any officer or employee of the City with a view toward securing a contract, securing favorable treatment with respect to the awarding, amending, or the making of any determinations in respect to the performance of such a contract. In the event City, as set forth in this paragraph, cancels this contract the City shall be entitled to recover from the Vendor all additional costs incurred by City as a result of the cancellation.

23. TERMINATION

A. DEFAULT: Failure by either party to perform any of its provisions will constitute a default and breach of contract, in which case, the other party may require corrective action within 10 days from the date the defaulting party receives written notice citing the nature of the breach. Failure of the defaulting party to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed 10 days will authorize the other party to terminate this agreement by written notice.

B. CONVENIENCE: The City reserves the right to terminate this contract upon 30 days written notice for any reason deemed by the City Council to serve the public interest. Termination for convenience will not be made when termination is authorized under any other provisions of this contract. In the event of such termination the City will pay the Contractor those costs directly attributable to supplies obtained in compliance with the contract prior to termination. Provided, however, that no costs will be paid to the Contractor which are recoverable in the normal course of doing business. The City is not liable for loss of any profits anticipated to be made hereunder.

C. FUNDING: The City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

D. FUNDING OUT: The State of Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Should, during the term of this contract, funds be withdrawn by the funding authority, a Force Majeur shall be deemed to exist, and this contract may be terminated without penalty or recourse by either party.

24. ENTIRETY OF AGREEMENT/AMENDMENTS

This represents the entire agreement between the parties relating to the subject matter of this contract. Any prior agreements, promises, negotiations, or representations between the parties are not binding unless included in this contract. All amendments to this contract must be in writing and executed by both parties.

25. SEVERABILITY

In case any one or more of the provisions contained in this contract is held to be invalid or unenforceable in any respect by a court of proper jurisdiction, the invalidity, illegality or unenforceability will not affect any other provision of this contract, and this contract will be construed as if the invalid or unenforceable provision was not contained herein.

26. INSURANCE

If required, specific insurance provisions will be included in bid specifications. An original, certified copy of an insurance certificate must be submitted within ten days from request. The successful vendor will be required to maintain, at all times during performance of the contract, the insurance detailed in bid specifications. Failure to provide this document may result in disqualification of bid.

27. INDEMNITY

The Vendor will indemnify, hold harmless and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional acts errors or omissions of the Vendor, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims demands and causes of action for personal injuries, death or damages to property alleged or actual infringement of patents, copyrights, and trademarks and without limitation by enumeration, all other claims, demands, or causes of action of every character occurring, resulting, or arising from any negligent or intentional wrongful act, error or omission of the Vendor or its agents or employees. This obligation by the Vendor will not be limited by reason of the specification of any particular insurance coverage required under this Agreement.

28. PATENTS

The bidder agrees to indemnify and save harmless the City, the Purchasing Manager, and his/her assistants from all suits and actions of every nature and description brought against it 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 Purchasing Manager, as a necessary requirement in connection with the final estimate for payment in which such patented appliances, products or processes are used.

29. CONFIDENTIALITY

The City of Seguin is governed by the Public Information Act ("The Act"), Chapter 552 of the Texas Government Code. All information submitted by prospective bidders during the bidding process is subject to release under The Act. On each page where proprietary information appears, information considered confidential must be labeled. Failure to so label the proprietary or confidential information shall be considered as a waiver of any confidentiality rights or interests. Disclosure of requested information will be determined in accordance with the Texas Public Information Act. You are not encouraged to submit such data and information unless it is absolutely required to understand and evaluate your response. If such data and information is submitted, you agree that the City shall not be liable for disclosure of such data and information and hereby release the City from any liability. In the event a request for public information is filed with the City which involves information labeled as confidential, you will be notified by the City of the request so that you will have an opportunity to contact the Attorney General as to why such information should not be released.

30. ANTI-LOBBYING PROVISION

Bidders are prohibited from directly or indirectly communicating with City Council members regarding the Bidder's qualifications or any other matter related to the eventual award of a contract for the

services requested under this Invitation for Bids. Bidders are prohibited from contacting City staff members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff member. Any violation will result in immediate disqualification of the Bidder from the selection process.

Upon issuance of the Invitation for Bids, all bidder communications and requests for clarification or objections shall be directed in writing to the Purchasing Manager for response, determination and dissemination to all bidders. Any communication by bidders or their representatives toward other city officers or employees regarding this Invitation for Bids or the award of a contract are prohibited and will constitute grounds for disqualification of a proponent. A lobbyist or a proponent or any of their agents may not do any act or refrain from any act for the express purpose and intent of placing any City official under personal obligation to the lobbyist or proponent.

31. CONFLICT OF INTEREST

A person or vendor seeking to contract with the City must file a Conflict of Interest Questionnaire (CIQ) if the person has a business relationship with the City, and either: has a business relationship with a city official or a city official's family member; or has given a gift worth more than \$250 to a city official or city official's family member within the previous 12-month period. A vendor required to file a CIQ must do so with the City's Purchasing Manager within seven business days of: (1) beginning contract discussions with the city; (2) submitting to the City an application, response to a request for proposals or bid; or (3) learning of the existence of the applicable business relationship. Vendors should see Texas Local Government Code Chapter 176 in an effort to determine its applicability. The conflict of interest questionnaire form is included herein and is available from the Texas Ethics Commission at www.ethics.state.tx.us.

32. CERTIFICATE OF INTERESTED PARTIES

Texas Government Code, Sections 2252.908 requires a business entity to submit a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity following the guidelines prescribed by the Texas Ethics Commission at www.ethics.state.tx.us. The law applies to contracts that require an action or vote by the governing body of the governmental entity before the contract is signed. The Form 1295 is included herein. The completed Form 1295 must be submitted electronically by the business entity to the state. A copy of the certified Form 1295 including the certification number generated by the state must be provided to the City of Seguin at the time a bid or proposal is submitted. Information on the Form 1295 may be considered by the City during bid evaluation and award. The City will only officially acknowledge the Form 1295 submitted by the awarded vendor which will cause it to be publicly posted on the Texas Ethics Commission website.

33. LOCAL VENDOR PREFERENCE POLICY

Texas Local Government Code, Sections 271.905(a) and 271.9051 allow the City to consider a vendor's principal place of business in awarding certain contracts by way of competitive bids. This consideration is in effect to promote economic development opportunities through the contract by employing local residents and increasing tax revenue. The City of Seguin applies a local vendor preference to bids in compliance with state statute.

34. NOTICES

All notices called for or required by this agreement will be addressed to Purchasing Manager, City of Seguin, 205 N. River Street, Seguin, Texas 78155, or such other party or address as either party designates in writing, by certified mail, postage pre-paid, or by hand delivery, and will be effective five days after mailing.

35. QUESTIONS

Questions regarding interpretation of specifications, bids, bid results or bid awards should be directed in writing to the Buyer indicated in the General and/or Technical Specifications or to the Purchasing Manager, twood@seguintexas.gov and be referenced by bid number and bid title.