



**CITY OF FORT WORTH / PURCHASING DIVISION
INVITATION TO BID No. 17-0005
SEALED BID FOR: HEATING, VENTILATION AND AIR CONDITIONING SERVICES
BID CLOSING DATE: DECEMBER 1, 2016
For further information contact: Camillia Ryan
FAX: (817) 392-8440, EMAIL: camillia.ryan@fortworthtexas.gov**

INSTRUCTIONS TO BIDDERS

Bids are solicited for furnishing the merchandise, supplies, services and/or equipment set forth in this solicitation. **Bids must be received in the Purchasing Office by 1:30 P.M., December 1, 2016** and then publicly opened and read aloud at 2:00 P.M. in the Council Chambers. Bids must be returned in a sealed envelope, addressed to the Purchasing Manager, City of Fort Worth and have the bid number, closing date, and company name clearly marked on the outside envelope. **Bids should be mailed or hand delivered to the following address:**

**Purchasing Division
Lower Level, Municipal Building
1000 Throckmorton Street
Fort Worth, Texas 76102**

Bids to be delivered by special courier (i.e. Federal Express, Special Delivery etc.) are to be marked "**BID MUST BE DELIVERED TO PURCHASING DIVISION BEFORE 1:30 P.M.**" in order to be considered. Late bids will be returned; they will not be opened nor considered in the evaluation of the bid. Bids may be withdrawn at any time prior to the official opening. Bids may not be altered, amended or withdrawn after the official opening. 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 bid will be 90 calendar days after the bid opening date unless the bidder submits a different date. (_____ days).

I have read and agreed with the attached Terms and Conditions, Instruction to Bidders and the Invitation to Bid requirements. Failure to complete the requested information below may result in rejection of your bid.

Company Name and Address	Company's Authorized Agent
	Signature:
Federal ID Number(TIN) or	Name and Title (Typed or Printed)
Social Security Number and Legal	
Company Name	Date
Telephone Number	
Fax Number	Email address:

Cooperative Purchasing: Should other Governmental Entities decide to participate in this contract, would you, the Vendor, agree that all terms, conditions, specifications, and pricing would apply? Yes_____ No_____

If you, the Vendor checked "Yes," the following will apply: Governmental entities within Tarrant County utilizing Inter-Governmental Contracts with the City of Fort Worth will be eligible, but not obligated, to purchase material/services under this contract(s) awarded as a result of this solicitation. All purchases by Governmental Entities other than the City of Fort Worth will be billed directly to that Governmental Entity and paid by that Governmental Entity. The City of Fort Worth will not be responsible for another Governmental Entity's debts. Each Governmental Entity will order its own material/services as needed.

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Jack Dale, JD, CPPO
Purchasing Manager



City of Fort Worth Vendor Registration Directions

- Visit FORTWORTHTEXAS.GOV
- Scroll to the purple section at bottom of page
- Under Business, click **Vendors**
- Click **Register as a Vendor (right side under BuySpeed Online)**
- After reading, click **Next step**
- Review **Vendor Terms & Conditions**
- Agree to the terms and click **Next Page**
- Click **Register**
- Enter your **Tax ID#** (or Social Security Number), **Company Name**, **Country** and **Email Address**; click **Submit**. The company name entered **MUST** be the same as the invoice you would present for payment to the City of Fort Worth.
- Complete all required information under each tab; be sure to **Save & Continue** at the bottom of your screen before proceeding to the next tab.
 - **Categories & Certifications** tab – a current W9 form is required before your vendor account can be activated. Don't forget to fax or email to purchasingbso@fortworthtexas.gov or (817) 392-1982
 - **Summary** tab – Verify that all information is accurate and there are no RED Validation Errors at the top of your screen. If you do have errors, you will not be able to proceed until all info is completed.
- Click **Complete Registration**
- Congratulations, you've registered!! You will receive an email with your registration confirmation after you have submitted your W9.

Questions? Email PurchasingBSO@FortWorthTexas.Gov

BID SOLICITATION

BID OPENING DATE AND TIME:
12/1/2016 1:30:00 PM
BID NUMBER: 17-0005

BUYER: Camillia Ryan
 PHONE #: (817)392 - 8321
 DELIVERY REQUIRED: 1/25/2017

V E N D O R	Vendor Name:
	Address:
	City, State Zip Code:

S H I P T O	City of Ft Worth
	VARIOUS DEPARTMENTS MULTIPLE DEPARTMENT ADDRESSES FORT WORTH TX 76102

Item	Class-Item	Quantity	Unit	Unit Price	Total
12.000	The City of Fort Worth is seeking an annual agreement for Heating, Ventilation and Air Conditioning Services. The agreement will be for one, one-year period with options to renew for up to four (4) additional one-year periods.			_____	_____
1.000	Qualified, Trained Technician (Regular Hours	750	HR	_____	_____
2.000	Assistant/Helper (Regular Hours)	300	HR	_____	_____
3.000	Qualified, Trained Technician (After Hours)	250	HR	_____	_____
4.000	Assistant/Helper(After Hours)	100	HR	_____	_____
5.000	Qualified, Trained Technician (Holidays)	50	HR	_____	_____
6.000	Assistant/Helper (Holidays)	50	HR	_____	_____
7.000	Qualified, Trained Control Technician (Regular Hours)	800	HR	_____	_____
8.000	Qualified, Trained Control Technician (After Hours)	75	HR	_____	_____
9.000	Qualified, Trained Control Technician (Holidays)	17	HR	_____	_____
10.000	Parts, Material, and Equipment Mark-up Percentage is _____% over Contractor's costs. Contractor shall provide proof of costs with each invoice.	300000	SUM	_____	_____

BID SOLICITATION

BID OPENING DATE AND TIME: 12/1/2016 1:30:00 PM BID NUMBER: 17-0005
BUYER: Camillia Ryan PHONE #: (817)392 - 8321 DELIVERY REQUIRED: 1/25/2017

V E N D O R	Vendor Name:
	Address:
	City, State Zip Code:

S H I P T O	City of Ft Worth VARIOUS DEPARTMENTS MULTIPLE DEPARTMENT ADDRESSES FORT WORTH TX 76102
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Item	Class-Item	Quantity	Unit	Unit Price	Total
11.000	Minimum Service Charge	60	EA	_____	_____
				TOTAL:	_____

WE AGREE TO FURNISH ANY OR ALL OF THE ITEMS QUOTED AT THE PRICES SHOWN. QUOTE MUST BE HELD FIRM FOR PERIOD OF 90 DAYS.

TERM OF PAYMENT: _____

DELIVERY: _____

TELEPHONE NUMBER: _____

COMPANY: _____

SIGNATURE: _____

NAME AND TITLE: _____

INSTRUCTIONS TO BIDDERS**1.0 SOLICITATION**

- 1.1 **Review of Documents:** Bidders are expected to examine all documents that make up the Solicitation. Bidders shall promptly notify the City of any omission, ambiguity, inconsistency or error that they may discover upon examination of the Solicitation. Bidders must use a complete Solicitation to prepare Bids. The City assumes no responsibility for any errors or misrepresentations that result from the use of incomplete Solicitations.
- 1.2 **Location of Documents:** Solicitations are issued by the Purchasing Division. The location and phone number for the Purchasing Division are specified in the advertisement and in the solicitation.

2.0 EXPLANATIONS OR CLARIFICATIONS

- 2.1 Any explanation, clarification, or interpretation desired by a Bidder regarding any part of the Solicitation must be requested in writing from the Purchasing Division with sufficient time allowed for a written addendum to reach each Bidder before the submission of their Bid. Interpretations, corrections, or changes to the Solicitation 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.
- 2.2 Requests for explanations or clarifications may be faxed to the City's Purchasing Division at (817) 392-8440. The fax must clearly identify the Buyer's name and the Solicitation number. Any material information given to one Bidder concerning a Solicitation will be furnished by an Addendum to all Bidders who have been issued a Solicitation.
- 2.3 **Unauthorized Communications:** Bidders' contact regarding this Invitation to Bid (ITB) with employees or officials of the City other than the Purchasing Manager, the Minority and Women Business Enterprise (M/WBE) Office, or as otherwise indicated in the ITB is prohibited and may result in disqualification from this procurement process. No officer, employee, agent or representative of the Respondent 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 solicitation, except as herein provided. Any violation of this prohibition may result in the Respondent being disqualified from the procurement process. Any oral communications are considered unofficial and non-binding with regard to this ITB.

3.0 PRE-BID CONFERENCE

If a pre-bid conference is held, the time, place, and nature of the conference will be specified on the cover page of the solicitation. Attendance at pre-bid conferences is not mandatory.

4.0 PREPARATION OF BIDS

Each Bidder must furnish all information required by a Solicitation on the documents provided. Bids submitted on other than the forms included in the Solicitation shall be considered non-responsive. Any attempt to alter the wording in the Solicitation is ineffective and will result in rejection of the Bid.

- 4.1 **Taxes:** Purchases of Goods or Services for City use are usually exempt from City, State, and most Federal Taxes. Bids may not include exempted taxes. The successful Bidder should request a Tax Exemption Certificate from the Purchasing Division. Under no

circumstances shall the City be liable to pay taxes for which the City has an exemption under any Contract.

- 4.2 **Brand Name or Equal:** If the Solicitation indicates brand name or “equal” products are acceptable, the Bidder may offer an “equal” product and must be prepared to demonstrate those features that render it equal. Final determination of a product as “equal” remains with the City.
- 4.3 **Delivery Time:** Delivery time, if stated as a number of days, will be based on calendar days. Time is of the essence in any City purchase. If the indicated date cannot be met or the date is not indicated, the Bidder shall state its best delivery time.
- 4.4 **Free on Board (FOB) Point:** Freight Terms shall be FOB Destination, Freight Prepaid and Allowed. The Bidder should quote its lowest and best price, with the goods delivered to the place specified, at the Bidder’s expense and risk, and there tender delivery to the City. Bids offering any other delivery terms are not acceptable and may be cause for rejection.
- 4.5 **Prices:**
- 4.5.1 Bids shall be firm priced offers unless otherwise specified.
 - 4.5.2 Pricing shall be entered on the Bid Sheet in ink.
 - 4.5.3 Totals shall be entered in the “Total Price” column of the Bid Sheet.
 - 4.5.4 In the event of a discrepancy between unit price and extended price, the unit price shall govern.
 - 4.5.5 Prices shall be offered in the Dollars of the United States of America (or decimal fractions thereof).
- 4.6 **Signature:** The Bidder must sign each document in the Solicitation requiring a signature. Any change made to the Bid must be initialed by the Bidder.
- 4.7 **Bid Security:** If a bid security is required for this purchase, the requirement will be reflected in the “Specification” section of the bid package. Cashier’s check or an acceptable surety bond in the amount indicated in the Notice to Bidders must be submitted at the time the bid is submitted, and is subject to forfeiture in the event the successful bidder fails to execute the contract documents within 10 calendar days after the contract has been awarded.
- 4.7.1 To be an acceptable surety on the bond:
 - 4.7.1.1 The name of the surety shall be included on the current Department of the Treasury’s Listing of Approved Sureties (Department Circular 570); or
 - 4.7.1.2 The surety must have capital and surplus equal 10 times the amount of the bond. The surety must be licensed to do business in the state of Texas.
- 4.8 **Alternate Bids:** Bidders may offer an “equal” product as an alternate bid. Final “approved equal” determination remains with the City.
- 4.9 **Proprietary Information:**
- 4.9.1 All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt.
 - 4.9.2 If a Bidder does not desire proprietary information in the bid to be 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

disclosure. The final decision as to information that must be disclosed lies with the Texas Attorney General.

4.9.3 Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

4.10 **Bid Preparation Costs:** All costs associated with preparing a Bid in response to a Solicitation shall be borne by the Bidder.

4.11 **Payments:** All payment terms shall be "Net 30 Days" unless otherwise specified in the bid document.

4.11.1 Successful bidders are encouraged to register for direct deposit payments prior to providing goods and/or services using the forms posted on the City's website at <http://www.fortworthgov.org/departments/>, click on "Automated Clearing House Setup" under "Auctions and Vendor Information"

5.0 **SUBMISSION OF BIDS**

5.1 **Copies:** Unless otherwise specified, Bidders are required to submit an executed original and one (1) copy of the Bid.

5.2 **Documents required with Bid:** The following documents must be submitted with each Bid prior to the Due Date:

5.2.1 The signed Offer and Award Sheet;

5.2.2 The Bid Sheet; and

5.2.3 Any other document included in the Solicitation requiring completion or execution by the Bidder.

5.3 **Addenda:** Receipt of an Addendum must be acknowledged by signing and returning the Addendum with the Bid if requested or under separate cover prior to the Due Date and Time. Addenda containing bid pricing should be returned in a sealed envelope marked on the outside with the Bidder's name, address, the Solicitation number, and the Due Date and time.

5.4 **Late Bids:** Bids must be received in the Purchasing Division prior to the Due Date and Time. All Bids received after the Due Date and Time are considered late and will be returned to the Bidder unopened. The time stamp clock on the receptionist's desk in the Purchasing Division is the time of record. It is the sole responsibility of the Bidder to ensure timely delivery of the Bid. The City will not be responsible for failure of service on the part of the U.S. Postal Office, courier companies, or any other form of delivery service chosen by the Bidder.

6.0 **MODIFICATION OR WITHDRAWAL OF BIDS**

6.1 **Modification of Bids:** Bids may be modified in writing at any time prior to the Due Date.

6.2 **Withdrawal of Bids:** Bids may be withdrawn in writing, telegraphically, or by facsimile (provided that the facsimile is signed by the Bidder) at any time prior to the Due Date. A Bid may also be withdrawn in person by a Bidder, provided the withdrawal is made prior to the Due Date. A receipt of withdrawal must be signed by the Bidder. No Bids may be withdrawn after the Due Date without forfeiture of the Bid guarantee, unless there is a material error in the Bid. Withdrawn Bids may be resubmitted, with or without modifications, prior to the Due Date. The City may require proof of agency from the person withdrawing a bid.

7.0 **OPENING OF BIDS**

The Purchasing Division representative responsible for opening Bids shall confirm the time and announce the Bid opening. The representative shall then personally and publicly open all Bids timely received, reading each bid aloud.

8.0 **EVALUATION FACTORS AND AWARD**

- 8.1 **Evaluation:** Bidders may furnish pricing for all or any portion of the Solicitation (unless otherwise specified). However, the City may evaluate and award the Contract for any item or group of items shown on the Solicitation, or any combination deemed most advantageous to the City. Bids that specify an “all or none” award may be considered if a single award is advantageous.
- 8.2 **Award:** The City will award contracts to the bidder who offers represents the “best value” to the City, price and other factors considered. The specific award strategy and evaluation factors will be stated in the specifications included in this ITB.
 - 8.2.1 The following criteria may be considered to determine the best value (see section 252.043 of the Texas Local Government Code):
 - 8.2.1.1 Purchase Price;
 - 8.2.1.2 Reputation of the bidder and of the bidder’s goods or services;
 - 8.2.1.3 Quality of the bidder’s goods or services;
 - 8.2.1.4 Extent to which the goods or services meet the City’s needs;
 - 8.2.1.5 Bidder’s past relationship with the City;
 - 8.2.1.6 Impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities;
 - 8.2.1.7 Total long-term cost to the City to acquire the bidder’s goods or services; and
 - 8.2.1.8 Any relevant criteria specifically listed in the request for bids or proposals.
 - 8.2.2 Total long-term cost may include specification conformance, delivery requirements, the life expectancy, cost of maintenance and operation, operating efficiency, training requirements, disposal value, warranties and other factors contributing to the overall acquisition cost of the product/services.
- 8.3 **Acceptance of Bid:** Acceptance of a Bid will be in the form of a Purchase Order or a Contract. Subsequent purchase releases may be issued as appropriate. The contents of a Bid shall become a part of the Contract. Under no circumstances will the City be responsible for Goods or Services provided without an acceptance signed by an Authorized City Representative.
- 8.4 **Reservations:** The City expressly reserves the right to:
 - 8.4.1 Specify approximate quantities in the Solicitation;
 - 8.4.2 Extend the Solicitation opening date and time;
 - 8.4.3 Consider and accept alternate Bids, if specified in the Solicitation, when most advantageous to the City;
 - 8.4.4 Waive as an informality, minor deviations from specifications provided they do not affect competition or result in functionally unacceptable goods or services;
 - 8.4.5 Waive any minor informality in any Bid or Solicitation procedure (a minor informality is one that does not affect the competitiveness of the Bidder);
 - 8.4.6 Add additional terms or modify existing terms in the Solicitation;
 - 8.4.7 Reject a bid because of unbalanced unit prices bid;
 - 8.4.8 Reject or cancel any or all Bids;

- 8.4.9 Reissue a Solicitation;
- 8.4.10 Procure any item by other means; and/or
- 8.4.11 Award to multiple vendors on a non-exclusive award basis, or primary and secondary vendors.

9.0 **POST-BID DOCUMENTS REQUIRED FROM SUCCESSFUL BIDDER**

- 9.1 **Certificates of Insurance:** When insurance is required, the Bidder must provide Certificates of Insurance in the amounts and for the coverages required to the Purchasing Office within 14 calendar days after notification of award, or as otherwise required by the Solicitation.
- 9.2 **Payment and/or Performance Bonds:** When Payment and/or Performance Bonds are required, the Bidder must provide the bonds, in the amounts and on the conditions required, within 14 calendar days after notification of award, or as otherwise required by the Solicitation.
- 9.3 **Minority Business Enterprise (MBE) Documents:** If an MBE goal has been established for the bid, the applicable documents **must** be submitted within five (5) City business days after the bid opening date, exclusive of the bid opening date. Bidders shall obtain a receipt from the appropriate department as evidence that the City received the documentation.
- 9.4 **Certificate of Interested Parties Form 1295:** The successful bidder is required to complete online and notarize the Certificate of Interested Parties Form 1295 and the form must be submitted to the Purchasing contact listed in the solicitation before the purchase/contract will be presented to the City Council. The form may be completed at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

Revised January 4, 2016

**City of Fort Worth
Invitation to Bid 17-0005
for
Heating, Ventilation and Air Conditioning Services**

1.0 INTENT

The intent of these specifications is to describe the minimum requirements necessary to establish an annual agreement with a licensed qualified and experienced vendor to repair and service Heating, Ventilation and Air Conditioning (HVAC) systems maintained by the City of Fort Worth (City).

2.0 SCOPE

2.1 The awarded vendor(s), hereinafter referred to as "Contractor," shall provide all equipment, materials, repair personnel, parts, and tools necessary to perform maintenance, repairs, "in-kind" unit replacements, and annual inspections on but not limited to commercial and industrial HVAC systems, chillers, cooling towers and walk-in coolers as called for and directed by the City on an as-needed basis.

2.2 This contract shall not cover:

2.2.1 New installations

2.2.2 Any replacement requiring stamped engineering drawings

2.2.3 Boiler systems

2.3 All parts and materials supplied under the agreement shall be new, unused, of recent manufacture, and suitable for its intended purpose.

3.0 REPAIRS

3.1 The Contractor will perform all work necessary to ensure the proper function, and operation of equipment provided of all systems. All repairs, services, and replacements must be performed to meet the most recent, applicable codes, laws, and regulations.

3.2 The Contractor must complete repair and/or identify repairs needed of the equipment within eight (8) hours after arrival of the first authorized maintenance personnel with the following exceptions:

3.2.1 If additional parts are required from outside a 100-mile radius of the equipment location, then repair should be completed within 24 hours for emergencies and 72 hours for routine situations.

3.2.2 If a public utility is involved and does not respond in a timely manner, then repair must be completed within four (4) hours of the public utility fixing their problem.

3.2.3 Restoration of service following a catastrophic event such as fire, storms, earthquakes, theft, intentional or accidental damage, shall be on the same basis as an emergency interruption with around -the-clock effort until full service is restored.

3.3 In the event the Contractor needs to rent large equipment (crane, scissor lift, etc.) to perform the work. Contractor will notify the authorized employee in writing.

3.3.1 The City shall be obligated to pay the Contractor's actual cost for rental. Mark-ups will not be paid by the City.

4.0 **MINIMUM BIDDING QUALIFICATIONS**

- 4.1 Prospective bidders must prove to the Purchasing Manager that they are duly qualified and capable to fulfill and abide by the requirements listed herein.
- 4.2 Bidder shall provide proof his/her company has been in business at least five (5) consecutive years maintaining and repairing HVAC systems.
- 4.3 Bidder shall provide a minimum of four (4) references, of which two must be comparable in size and scope, that the bidder has recently provided excellent service(s) on a continuing basis over a recent twelve (12) month period. See Attachment A, Page 28 of 33.
- 4.4 Bidder's company shall have at least three (3) full-time, qualified technicians. All technicians shall have a minimum of five (5) years' experience repairing and servicing commercial and industrial HVAC systems like, but not limited to those listed in this document.
- 4.5 The Purchasing Manager will accept factory certification as satisfactory evidence of employee qualifications.
 - 4.5.1 Bidders are to include with their bid the names, years of experience and factory certifications and licenses of employees that will perform work on City equipment under an agreement resulting from this bid.
- 4.6 Bidder's shall provide proof technicians are trained and certified to perform tear down, annual preventive maintenance and repair of, but not limited to, centrifugal compressors, screw compressors, reciprocating compressors, chillers, cooling towers, and walk-in coolers of all major brands such as, but not limited to Carrier, Trane, York, Lennox, Whirlpool, and Janitrol.
- 4.7 Bidder's equipment shall include all tools and materials needed to accomplish the scope of work as well as devices needed to capture and properly dispose of ozone-destroying gasses associated with refrigeration equipment.
 - 4.7.1 This shall include oil analysis by a lab when recommended.
- 4.8 Bidder shall possess a current license(s) issued by the Texas State Licensing and Regulation Department with endorsements for environmental air conditioning, commercial refrigeration and process cooling and heating (Class A or Class B), and/or City of Fort Worth Mechanical Licenses for each employee assigned to this contract.

5.0 **CONTRACTOR RESPONSIBILITIES**

- 5.1 **Supervision** – The Contractor shall, during all periods of contract performance, provide competent supervision of his employees to assure complete and satisfactory fulfillment of the work and the terms of this Contract. The Contractor or a capable, fully authorized representative must be immediately available during all work activities to receive any and all special instructions from the Purchasing Manager or designee.
- 5.2 **Safety** – The Contractor must be thoroughly familiar with all prevailing safety measures pertinent to its operations. This shall include, but not necessarily be limited to Environmental Health Agency (EPA) regulations, Fort Worth City Ordinances, and Occupational Safety and Health Agency (OSHA) regulations. In addition, the Contractor shall be wholly responsible for instructing its employees in these safety measures and seeing that they are fully complied with in every respect.
- 5.3 **Identification** – Contractor's employees are required to wear an identification badge, at all times while performing work under this agreement.

- 5.3.1 There may be times when the requesting department will issue City Contractor I.D. badges for the Contractor's employees. The I.D. badges shall be surrendered to the department representative upon the completion of each project.
- 5.4 **Hazards** – The Contractor shall at no time permit placing or use of equipment in such manner as to block traffic lanes or to create safety hazards. Contractor personnel shall provide appropriate warning devices when necessary and cooperate in the fullest in allowing through passage of other vehicles and personnel, even to the point of interrupting their own work, if necessary.
- 5.5 **Environmental** – Bidders should be aware of the highly corrosive effects of hydrogen sulfide that is present at some City jobsites. Contractor shall provide corrosion resistant protective coatings where needed on City HVAC equipment as a part of any repairs or maintenance.
- 5.6 **Defective Work and Damages** – The Contractor shall be wholly responsible for and shall promptly correct or restore all defective Work or damages to any/all City facilities caused by its activities. Restoration and correction shall be to the complete satisfaction of the City. This shall apply to any part of a building, its appurtenances, the adjacent grounds, or any other tangible damage incurred in the performance of the Contract. Failure by the Contractor to proceed promptly with corrective actions may be cause for cancellation of this Contract with amount(s) necessary to correct defective work and/or damage being withheld from payments due or to become due to the Contractor.
- 5.6.1 Contractor shall be responsible for any defects in the project due to faulty materials and workmanship, or both, for a period of one year from date of final acceptance of this project by the City and will be required to replace at his/her expense any part or the entire project which becomes defective due to these causes
- 5.7 **Clean Up** - The Contractor shall keep the premise free at all times from accumulation of waste materials or rubbish. At the completion of the work, the Contractor shall remove all waste and rubbish from and about the work area, as well as tools, equipment and surplus materials, and shall leave the area as clean and as free of spots, stains, etc., as before the work was undertaken.
- 5.8 **Regulations** - Contractor shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations pertaining to the performance of the work specified herein even if they come into effect after the start of this agreement. All mandates requiring the City to comply with new guidelines will also require the City Contractors to comply.
- 5.9 **Performance** - Failure of the City to insist in any one or more instances upon performance of any of the terms and conditions of this contract shall not be construed as a waiver or relinquishment of the future performance of any terms and conditions, but the Contractor's obligation with respect to such performance shall continue in full force and effect.

6.0 **WARRANTY**

- 6.1 The Contractor shall provide a warranty to include at a minimum, but not limited to the following:
- 6.1.1 The Contractor's warranty with respect to the products repaired or replaced will run for one (1) year from date of repair or replacement and acceptance of such by the City.
- 6.1.2 In addition to any other warranties in this contract, the Contractor warrants that all work and products supplied under this contract conforms to the contract requirements and is free from any defect in workmanship, equipment, material, or design furnished by the Contractor or any subcontractor or supplier at any tier.

- 6.1.2.1 The City shall notify the Contractor, within a reasonable time after the discovery of any failure, defect, or damage.
- 6.1.2.2 Contractor agrees to remedy, repair or replace promptly, at Contractor's expense, on a one-for-one basis without additional cost to the City; any and all defective work and products. The City defines "prompt" repair or replacement to be within twenty- four (24) hours after notification by authorized City personnel.
- 6.1.3 The Contractor shall remedy at Contractor's expense any damage to real or personal property owned by the City, when that damage is the result of a defect of products furnished.
- 6.1.4 If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the City shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- 6.1.5 This warranty shall not include failures attributable to accident, fire, or negligence on the part of operating (using) personnel.
- 6.1.6 With respect to all warranties, expressed or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
 - Obtain all warranties that would be obtained in normal commercial practice
 - Require all warranties to be executed in writing, for the benefit of the City
 - Enforce all warranties for the benefit of the City

7.0 **BACKGROUND INVESTIGATIONS**

- 7.1 Due to working in facilities subject to federal Criminal Justice Information System requirements, contract workers must be fingerprinted and must be able to pass a criminal background check and drug screen. This must be done at the Contractor's expense and verification of a clear background must be given to the contract administrator before any Contractor employee is allowed to work in a building which falls under this requirement.
 - 7.1.1 Under no circumstances shall any Contractor personnel having any convictions or pending criminal hearings be assigned to the City contract.

8.0 **HOURS OF SERVICE AND RESPONSE TIME**

Contractor shall respond to site the same day contacted, if called before 12:00 noon or the next day if called after 12:00 noon. In case of emergency, the Contractor shall respond to the site within two (2) hours.

- 8.1 Regular hours shall be 8:00 a.m. to 5:30 p.m., Monday through Friday.
- 8.2 After hours shall be 5:30 p.m. to 8:00 a.m., Monday through Friday; and all hours Saturday and Sunday.
- 8.3 Holiday hours shall be all City of Fort Worth observed holidays.
 - 8.3.1 The City of Fort Worth recognizes the following holidays:
 - New Year's Day
 - Martin Luther King Junior Day
 - Memorial Day
 - July 4th
 - Labor Day
 - Thanksgiving Thursday and Friday
 - Christmas Day
- 8.4 Emergency response service will be 24 hours a day, 7 days a week including holidays.

9.0 **BUDGET ESTIMATES**

- 9.1 Contractor shall provide cost estimates if requested by the ordering division.
- 9.2 Cost estimates do not have to be exact; however, they should reflect a realistic dollar amount comparable to the work requested/needed.
- 9.3 All estimates shall be itemized to show labor costs and material and parts costs.
 - 9.3.1 Material and parts costs shall be broken out.

10.0 **INVOICES**

Invoices shall be paid according to State law.

- 10.1 Payment shall be made on a Net 30 Day basis unless bidder offers, and the City accepts, a prompt payment discount such as 1%/Net 10.
- 10.2 Upon completion of repair/maintenance work, the Contractor will provide the City a detailed invoice.
- 10.3 Invoices are to be submitted to the City Department/Division ordering the service.
- 10.4 The invoice will be computer-generated or typewritten and shall include:
 - 10.4.1 Purchase Order Number
 - 10.4.2 Release Number
 - 10.4.3 Work order number (if applicable)
 - 10.4.4 Service date
 - 10.4.5 Service location
 - 10.4.6 Service provided
 - 10.4.7 Itemized list of parts/equipment provided
 - 10.4.8 Arrival and departure times
 - 10.4.9 Unit prices and extended prices
- 10.5 Contractor must provide proof of his/her costs of materials and parts with all invoices that include such items. The City reserves the right to determine the adequacy of proof of cost submitted.
- 10.6 Failure to provide this information on an invoice may delay the payment process.

11.0 **INSURANCE REQUIREMENTS**

- 11.1 The Contractor shall assume all risk and liability for accidents and damages that may occur to persons or property during the prosecution of work under this Agreement. The Contractor shall file with the City of Fort Worth Purchasing Division, prior to the commencement of services, a certificate of insurance documenting the following required insurance.
 - 11.1.1 Failure to provide such information within five (5) calendar days may be grounds for Agreement termination.
- 11.2 Policies shall have no exclusions by endorsements which nullify the required lines of coverage, nor decrease the limits of said coverage unless such endorsements are approved by the City. In the event a contract has been bid or executed and the exclusions are determined to be unacceptable or the City desires additional insurance coverage, and the City desires the Contractor to obtain such coverage, the contract price shall be adjusted by the cost of the premium for such additional coverage plus 10%.
 - 11.2.1 Statutory Workers' Compensation Insurance and Employer's Liability Insurance at the following limits:
 - \$100,000 Each Accident
 - \$500,000 Disease – Policy limit

\$100,000 Disease – Each Employee

This coverage may be written as follows:

Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 8308 – 1.01 et seq. Tex. Rev. Civ. Stat.) and minimum policy limits for Employers' Liability of \$100,000 each accident/occurrence, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee.

- 11.2.2 Commercial General Liability Insurance including Explosion, Collapse, and Underground Coverage shall be provided as follows:

\$1,000,000 Each Occurrence

\$2,000,000 Annual Aggregate

Coverage shall include but not be limited to the following: premises/operations, independent Contractors, products/completed operations, personal injury, and contractual liability. Insurance shall be provided on an occurrence basis, and as comprehensive as the current Insurance Services Office (ISO) policy.

- 11.2.3 Auto Liability Insurance shall be provided as follows:

\$1,000,000 Combined Single Limit Each Accident

A commercial business policy shall provide coverage on "Any Auto", defined as autos owned, hired and non-owned.

- 11.2.4 The Contractor shall furnish the Purchasing Manager, with a certificate of insurance documenting the required insurance prior to the commencement of services.

- 11.2.5 Policies shall be endorsed to provide the City of Fort Worth a thirty- (30) day notice of cancellation, material change in coverage, or non-renewal of coverage.

- 11.2.6 Applicable policies shall also be endorsed to name the City of Fort Worth as an additional insured, as its interests may appear (ATIMA).

11.3 ADDITIONAL INSURANCE REQUIREMENTS

- 11.3.1 The City, its officers, employees and servants shall be endorsed as an additional insured on Contractor's insurance policies excepting employer's liability insurance coverage under Contractor's workers' compensation insurance policy.

- 11.3.2 Certificates of insurance satisfactory to the City and Worker's Compensation Affidavit must be received before Contractor can begin work. Failure to supply and maintain such insurance shall be a breach of contract. Contractor shall provide complete copies of all insurance policies required by this Agreement. Certificates of insurance must be supplied to:

Financial Management Services Department
Attention: Purchasing Division # 17-0005
1000 Throckmorton Street
Fort Worth, Texas 76102

- 11.3.3 Any failure on part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein. Each insurance policy shall be endorsed to provide the City a minimum thirty (30) days notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.

- 11.3.4 Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A: VII or equivalent measure of financial strength and solvency.
- 11.3.5 Deductible limits, or self-funded retention limits, on each policy must not exceed \$10,000.00 per occurrence unless otherwise approved by the City.
- 11.3.6 Other than worker's compensation insurance, in lieu of traditional insurance, City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. The City must approve in writing any alternative coverage.
- 11.3.7 Workers' compensation insurance policy(s) covering employees of the Contractor shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
- 11.3.8 City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.
- 11.3.9 Contractor's insurance policies shall each be endorsed to provide that such insurance is primary protection and any self-funded or commercial coverage maintained by City shall not be called upon to contribute to loss recovery.
- 11.3.10 While the purchase order is in effect, Contractor shall report, in a timely manner, to the Purchasing Department any known loss occurrence that could give rise to a liability claim or lawsuit or which could result in a property loss.
- 11.3.11 Contractor's liability shall not be limited to the specified amounts of insurance required herein.

12.0 **QUANTITIES**

The quantities listed on the Bid Solicitation page are only estimates based on previous years' needs and are not intended to guarantee future purchases. The City is obligated to pay for only those materials and services actually ordered by an authorized City employee and then received as required by the City.

13.0 **PRICING**

- 13.1 Hourly labor rates and percentages bid shall be the delivered prices and items shall be delivered with the terms of FOB Destination, Freight Prepaid, and Allowed.
- 13.2 Hourly labor rates for repair will be actual time worked at the City's job site to the nearest one-quarter hour.
- 13.3 Contractor's delays, servicing delays, mileage, freight, parts procurement or travel time will not be accepted or paid by the City under the terms of this agreement.
- 13.4 HVAC parts/equipment and materials for repairs shall be charged to the City using a cost plus/mark up percentage listed on the bid solicitation page.
 - 13.4.1 Contractor must provide proof of cost with all invoices that list electrical equipment/parts and material charges.

14.0 **PRICE ADJUSTMENTS**

- 14.1 Fixed hourly bid prices shall remain firm through the initial term of this agreement.
- 14.2 Mark-up percentages shall remain firm for the duration of the contract, which includes renewal options.
- 14.3 Requests for price increases for fixed priced items will only be considered as part of the renewal process.

- 14.3.1 Such requests shall be for Contractor's increase in operating cost and not for profit.
 - 14.3.2 Contractor's request shall be in writing and submitted, with supporting documentation, to the Purchasing Division no later than 90 days prior to expiration of the current agreement term.
 - 14.4 The City reserves the right to accept an increase or cancel any individual item affected, or entire purchase agreement, if the increase is not acceptable.
- 15.0 **BID SUBMITTAL**
- 15.1 Bidder shall submit the following items with its bid. Failure to submit the items listed may be grounds for rejections of a bid as non-responsive to the specifications.
 - 15.1.1 Completed and signed Invitation to Bid Cover Sheet
 - 15.1.2 Completed Bid Solicitation Sheet
 - 15.1.3 References – ATTACHMENT A
 - 15.1.4 Addendums (if applicable)
 - 15.1.5 Current list of names, telephone/pager/cellular numbers of the person to be notified of a request for services
 - 15.1.6 Copy of all licenses and certifications necessary to allow Contractor to completely perform all service requests
 - 15.1.7 Company history – provide supporting documentation of company's years in business
 - 15.1.8 Conflict of Interest Form – ATTACHMENT B
 - 15.1.9 Local Preference Form (if applicable) – ATTACHMENT C
- 16.0 **CONTRACTOR SELECTION**
- 16.1 A contract pursuant to this solicitation, if awarded, shall be based on lowest priced bidder(s) meeting or exceeding the requirements and qualifications stated within this document. The City's evaluation will consider price, past performance with other government and/or private entities and/or with the City itself, experience, company stability/years in business and compliance with all legal and other bidder requirements as stated in this document.
 - 16.1.1 Such precautions are deemed to be in the public interest inasmuch as Contractor failure or inability to furnish items within the prescribed time can create emergency situations and impose unnecessary hardship on both the City as a municipal corporation and the public at large.
 - 16.2 Bidder shall show to be responsible and responsive, possessing the potential ability to perform successfully under the terms and conditions specified herein.
 - 16.2.1 A responsive bidder is defined to be one who submits a completed bid packet within the stated time deadline and in accordance with the bid specifications.
 - 16.2.2 A responsible bidder is defined to be one who demonstrates via responses to the selection criteria his/her ability to successfully deliver the supplies, equipment, or services being procured.
- 17.0 **AWARD OF CONTRACT AND RENEWAL TERMS**
- 17.1 The City reserves the right to accept or reject in whole or in part any or all bids received and to make an award on the basis of individual item, combination of items, or overall bid, as it is deemed in the best interest of the City.
 - 17.2 The Contract, if awarded, shall be an annual purchase agreement.
 - 17.3 The initial term of this agreement shall be one (1) year from the date of approval by the Fort Worth City Council.

- 17.4 Upon execution of award, the City will issue a Blanket Purchase Order to the Contractor(s) for the initial twelve (12) month period of the agreement.
- 17.5 This agreement may be renewed for up to four (4) additional one-year terms by mutual agreement of the parties.
- 17.6 Upon expiration of the initial term or renewal period, Contractor agrees to extend the Contract term up to ninety (90) days under the same terms and conditions to allow a reasonable period of time as to re-solicit the contract.
- 17.7 The City reserves the right to terminate, in whole or in part without recourse or penalty, any purchase order or contract that results from or is connected to this Invitation to Bid.

18.0 **TERMS AND CONDITIONS**

The City's Standard Purchasing Terms and Conditions shall apply to the Contract awarded from this bid.

19.0 **CONTRACT ADMINISTRATION**

- 19.1 Contract administration will be performed by the City of Fort Worth Purchasing Division. In the event the Contractor fails to perform according to the terms of the agreement, the ordering department's Department Head or his/her designee will notify the Contractor, in writing, of its failures. A meeting may be arranged to discuss the Contractor's deficiencies. A written cure notice may be prepared giving the Contractor ten (10) calendar days to cure any deficiency.
- 19.2 In the event the Contractor continues with unsatisfactory performance, the department will promptly notify the Purchasing Manager who will take appropriate action to cure the performance problem(s), which could include cancellation, termination for convenience or default. If the agreement is terminated for default, the Contractor may be held liable for excess cost and/or liquidated damages.
- 19.3 The Contractor will be paid only those sums due and owing under the agreement for services satisfactorily rendered, subject to offset for damages and other amounts which are, or which may become, due and owing to the City.
- 19.4 The City reserves the right to terminate this agreement, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work.
- 19.5 Subject to the terms of this agreement, the Contractor shall be paid a percentage of the agreement price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the City using its standard record keeping system, have resulted from the termination. However, in no event shall the total of all amounts paid to the Contractor exceed the agreement price. The Contractor shall not be reimbursed for any profits which may have been anticipated, but which have not been earned up to the date of termination.

20.0 **COMPLAINTS**

- 20.1 Complaints processed through the City's Purchasing Division are to be corrected within fourteen (14) days of formal notice of complaint.
- 20.2 Written response to the Contract Administrator is required.
- 20.3 Failure to properly resolve complaints within the fourteen (14) calendar-day period may result in the cancellation of the applicable line item(s) in the price agreement.

21.0 **CHANGE IN COMPANY NAME OR OWNERSHIP**

The Contractor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. Failure to do so may adversely impact future invoice payments.

22.0 **QUESTIONS**

Any questions regarding this bid package should be directed to Camillia Ryan, Contract Buyer Purchasing Division, Telephone: 817-392-8381 or email: camillia.ryan@fortworthtexas.gov.

CITY OF FORT WORTH, TEXAS
STANDARD PURCHASING TERMS AND CONDITIONS

1.0 DEFINITION OF BUYER

The City of Fort Worth, its officers, agents, servants, authorized employees, vendors and subvendors who act on behalf of various City departments, bodies or agencies.

2.0 DEFINITION OF SELLER

The consultant, contractor, supplier, vendor or other provider of goods and/or services, its officers, agents, servants, employees, vendors and subvendors who act on behalf of the entity under a contract with the City of Fort Worth.

3.0 PUBLIC INFORMATION

Any information submitted to the City of Fort Worth (the "City") may be requested by a member of the public under the Texas Public Information Act. See TEX. GOV'T CODE ANN. §§ 552.002, 552.128(c) (West Supp. 2006). If the City receives a request for a Seller's proprietary information, the Seller listed in the request will be notified and given an opportunity to make arguments to the Texas Attorney General's Office (the "AG") regarding reasons the Seller believes that its information may not lawfully be released. If Seller does not make arguments or the AG rejects the arguments Seller makes, Seller's information will be released without penalty to the City.

4.0 PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS

No officer or employee of Buyer shall have a financial interest, direct or indirect, in any contract with Buyer or be financially interested, directly or indirectly, in the sale to Buyer of any land, materials, supplies or services, except on behalf of Buyer as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the City Council shall render the contract invalid by the City Manager or the City Council. (Chapter XXVII, Section 16, City of Fort Worth Charter)

5.0 ORDERS

5.1 No employees of the Buyer or its officers, agents, servants, vendors or subvendors who act on behalf of various City departments, bodies or agencies are authorized to place orders for goods and/or services without providing approved contract numbers, purchase order numbers, or release numbers issued by the Buyer. The only exceptions are Purchasing Card orders and emergencies pursuant to Texas Local Government Code Section 252.022(a)(1), (2), or (3). In the case of emergencies, the Buyer's Purchasing Division will place such orders.

5.2 Acceptance of an order and delivery on the part of the Seller without an approved contract number, purchase order number, or release number issued by the Buyer may result in rejection of delivery, return of goods at the Seller's cost and/or non-payment.

6.0 SELLER TO PACKAGE GOODS

Seller will package goods in accordance with good commercial practice. Each shipping container, shall be clearly and permanently marked as follows: (a) Seller's name and address; (b) Consignee's name, address and purchase order or purchase change order number; (c) Container number and total number of containers, e.g., box 1 of 4 boxes; and (d) Number of the container bearing the packing slip. Seller shall bear the 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. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

7.0 **SHIPMENT UNDER RESERVATION PROHIBITED**

Seller is not authorized to ship the goods under reservation, and no tender of a bill of lading will operate as a tender of goods.

8.0 **TITLE AND RISK OF LOSS**

The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery after inspection and acceptance of the goods.

9.0 **DELIVERY TERMS AND TRANSPORTATION CHARGES**

Freight terms shall be F.O.B. Destination, Freight Prepaid and Allowed, unless delivery terms are specified otherwise in Seller's bid. Buyer agrees to reimburse Seller for transportation costs in the amount specified in Seller's bid or actual costs, whichever is lower, if the quoted delivery terms do not include transportation costs; provided, Buyer shall have the right to designate what method of transportation shall be used to ship the goods.

10.0 **PLACE OF DELIVERY**

The place of delivery shall be set forth in the "Ship to" block of the purchase order, purchase change order, or release order.

11.0 **RIGHT OF INSPECTION**

Buyer shall have the right to inspect the goods upon delivery before accepting them. Seller shall be responsible for all charges for the return to Seller of any goods rejected as being nonconforming under the specifications.

12.0 **INVOICES**

12.1 Seller shall submit separate invoices in duplicate, on each purchase order or purchase change order after each delivery. Invoices shall indicate the purchase order or purchase change order number. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, should be attached to the invoice. Seller shall mail or deliver invoices to Buyer's Department and address as set forth in the block of the purchase order, purchase change order or release order entitled "Ship to." Payment shall not be made until the above instruments have been submitted after delivery and acceptance of the goods and/or services.

12.2 Seller shall not include Federal Excise, State or City Sales Tax in its invoices. The Buyer shall furnish a tax exemption certificate upon Seller's request.

13.0 **PRICE WARRANTY**

13.1 The price to be paid by Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products and services of the kind and specification covered by this agreement for similar quantities under like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the prices contained in Seller's bid, or in the alternative upon Buyer's option, Buyer shall have the right to cancel this contract without any liability to Seller for breach or for Seller's actual expense. Such remedies are in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13.2 Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage or contingent fee, excepting employees of an established commercial or selling agency that is maintained by Seller for the purpose of securing business. For breach or violation of this warranty, Buyer shall have the right, in addition to any other right or rights arising pursuant to said purchase(s), to cancel this contract without liability and to deduct from the contract price such commission percentage, brokerage or contingent fee, or

otherwise to recover the full amount thereof.

14.0 **PRODUCT WARRANTY**

Seller shall not limit or exclude any express or implied warranties and any attempt to do so shall render this contract voidable at the option of Buyer. Seller warrants that the goods furnished will conform to Buyer's specifications, drawings and descriptions listed in the bid invitation, and the sample(s) furnished by Seller, if any. In the event of a conflict between Buyer's specifications, drawings, and descriptions, Buyer's specifications shall govern.

15.0 **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 29.0 of these terms and conditions. Failure to make such refund shall constitute breach and cause this contract to terminate immediately.

16.0 **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, non-exclusive, 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.

17.0 **WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY**

17.1 **The SELLER warrants that all Deliverables, or any part thereof, furnished hereunder, including but not limited to: programs, documentation, software, analyses, applications, methods, ways, and processes (in this Section each individually referred to as a "Deliverable" and collectively as the "Deliverables,") do not infringe upon or violate any patent, copyrights, trademarks, service marks, trade secrets, or any intellectual property rights or other third party proprietary rights, in the performance of services under this Agreement.**

17.2 **SELLER shall be liable and responsible for any and all claims made against the City for infringement of any patent, copyright, trademark, service mark, trade secret, or other intellectual property rights by the use of or supplying of any Deliverable(s) in the course of performance or completion of, or in any way connected with providing the services, or the City's continued use of the Deliverable(s) hereunder.**

17.3 **SELLER agrees to indemnify, defend, settle, or pay, at its own cost and expense, including the payment of attorney's fees, any claim or action against the City for infringement of any patent, copyright, trade mark, service mark, trade secret, or other intellectual property right arising from City's use of the Deliverable(s), or any part thereof, in accordance with this Agreement, it being understood that this agreement to indemnify, defend, settle or pay shall not apply if the City modifies or misuses the Deliverable(s). So long as SELLER bears the cost and expense of payment for claims or actions against the City pursuant to this section 8, SELLER shall have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, City shall have the right to fully participate in any and all such settlement, negotiations, or lawsuit as necessary to protect the City's interest, and**

City agrees to cooperate with SELLER in doing so. In the event City, for whatever reason, assumes the responsibility for payment of costs and expenses for any claim or action brought against the City for infringement arising under this Agreement, the City shall have the sole right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, SELLER shall fully participate and cooperate with the City in defense of such claim or action. City agrees to give SELLER timely written notice of any such claim or action, with copies of all papers City may receive relating thereto. Notwithstanding the foregoing, the City's assumption of payment of costs or expenses shall not eliminate SELLER's duty to indemnify the City under this Agreement. If the Deliverable(s), or any part thereof, is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, SELLER shall, at its own expense and as City's sole remedy, either: (a) procure for City the right to continue to use the Deliverable(s); or (b) modify the Deliverable(s) to make them/it non-infringing, provided that such modification does not materially adversely affect City's authorized use of the Deliverable(s); or (c) replace the Deliverable(s) with equally suitable, compatible, and functionally equivalent non-infringing Deliverable(s) at no additional charge to City; or (d) if none of the foregoing alternatives is reasonably available to SELLER, terminate this Agreement, and refund all amounts paid to SELLER by the City, subsequent to which termination City may seek any and all remedies available to City under law.

18.0 **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 vendors hereby waives any property interest in such Work Product.

19.0 **NETWORK ACCESS**

The City owns and operates a computing environment and network (collectively the "Network"). If Seller requires access, whether onsite or remote, to the City's network to provide services hereunder, and the Seller is required to utilize the Internet, Intranet, email, City database, or other network application, Seller shall separately execute the City's Network Access Agreement prior to providing such services. A copy of the City's standard Network Access Agreement can be provided upon request.

20.0 **CANCELLATION**

Buyer shall have the right to cancel this contract immediately for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller. Such right of cancellation is in addition to and not in lieu of any other remedies, which Buyer may have in law or equity.

21.0 **TERMINATION**

The performance of work or purchase of goods under this order may be terminated in whole or in part by Buyer, with or without cause, at any time upon the delivery to Seller of a written "Notice of Termination" specifying the extent to which performance of work or the goods to be purchased

under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of any other termination rights of Buyer as set forth herein.

22.0 **ASSIGNMENT / DELEGATION**

No interest, obligation or right of Seller, including the right to receive payment, under this contract shall be assigned or delegated to another entity without the express written consent of Buyer. Any attempted assignment or delegation of Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Prior to Buyer giving its consent, Seller agrees that Seller shall provide, at no additional cost to Buyer, all documents, as determined by Buyer, that are reasonable and necessary to verify Seller's legal status and transfer of rights, interests, or obligations to another entity. The documents that may be requested include, but are not limited to, Articles of Incorporation and related amendments, Certificate of Merger, IRS Form W-9 to verify tax identification number, etc. Buyer reserves the right to withhold all payments to any entity other than Seller, if Seller is not in compliance with this provision. If Seller fails to provide necessary information in accordance with this section, Buyer shall not be liable for any penalties, fees or interest resulting therefrom.

23.0 **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 in writing and is signed by the aggrieved party.

24.0 **MODIFICATIONS**

This contract can be modified or rescinded only by a written agreement signed by both parties.

25.0 **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.

26.0 **APPLICABLE LAW / VENUE**

This agreement shall be governed by the Uniform Commercial Code wherever the term "Uniform Commercial Code" or "UCC" is used. It shall be construed as meaning the Uniform Commercial Code as adopted and amended in the State of Texas. Both parties agree that venue for any litigation arising from this contract shall be in Fort Worth, Tarrant County, Texas. This contract shall be governed, construed and enforced under the laws of the State of Texas.

27.0 **INDEPENDENT VENDOR**

Seller shall operate hereunder as an independent vendor and not as an officer, agent, servant or employee of Buyer. Seller 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, vendors and sub-vendors. The doctrine of respondeat superior shall not apply as between Buyer and Seller, its officers, agents, employees, vendors and subvendors. Nothing herein shall be construed as creating a

partnership or joint enterprise between Buyer and Seller, its officers, agents, employees, vendors and subvendors.

28.0 **LIABILITY AND INDEMNIFICATION.**

28.1 **LIABILITY** - SELLER SHALL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL MISCONDUCT OF SELLER, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

28.2 **INDEMNIFICATION** - SELLER HEREBY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY (ALSO REFERRED TO AS BUYER), ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO SELLER'S BUSINESS, AND ANY RESULTING LOST PROFITS) PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, AND DAMAGES FOR CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE ACTS OR OMISSIONS OF SELLER, ITS OFFICERS, AGENTS, SUBCONTRACTORS, SERVANTS OR EMPLOYEES.

29.0 **SEVERABILITY**

In case any one or more of the provisions contained in this agreement 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 agreement, which agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

30.0 **FISCAL FUNDING LIMITATION**

In the event no funds or insufficient funds are appropriated and budgeted in any fiscal period for payments due under this contract, then Buyer will immediately notify Seller of such occurrence and this contract shall be terminated on the last day of the fiscal period for which funds have been appropriated without penalty or expense to Buyer of any kind whatsoever, except to the portions of annual payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available.

31.0 **NOTICES TO PARTIES**

Notices addressed to Buyer pursuant to the provisions hereof shall be conclusively determined to have been delivered three (3) business days following the day such notice is deposited in the United States mail, in a sealed envelope with sufficient postage attached, addressed to Purchasing Manager, City of Fort Worth, Purchasing Division, 1000 Throckmorton Street, Fort Worth, Texas 76102. Notices to Seller shall be conclusively determined to have been delivered three (3) business days following the day such notice is deposited in the United States mail, in a sealed envelope with sufficient postage attached, addressed to the address given by Seller in its response to Buyer's invitation to bid. Or if sent via express courier or hand delivery, notice is considered received upon delivery.

32.0 **NON-DISCRIMINATION**

This contract is made and entered into with reference specifically to Chapter 17, Article III, Division 3 ("Employment Practices"), of the City Code of the City of Fort Worth (1986), as amended, and Seller hereby covenants and agrees that Seller, its employees, officers, agents, vendors or subvendors, have fully complied with all provisions of same and that no employee, participant, applicant, vendor or subvendor has been discriminated against according to the terms of such Ordinance by Seller, its employees, officers, agents, vendor or subvendors herein.

33.0 **IMMIGRATION NATIONALITY ACT**

The City of Fort Worth 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.

34.0 **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.

35.0 **RIGHT TO AUDIT**

Seller agrees that the Buyer, or Buyer's authorized representative, shall, until the expiration of three (3) years after final payment under this contract, and at no additional cost to Buyer, have access to and the right to examine and copy any directly pertinent books, computer disks, digital files, documents, papers and records of the Seller involving transactions relating to this contract, including any and all records maintained pursuant to Section 31 of this Agreement. Seller agrees that the Buyer shall have access, during normal working hours, to all necessary Seller facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this section. Buyer shall pay Seller for reasonable costs of any copying in accordance with the standards set forth in the Texas Administrative Code. The Buyer shall give Seller reasonable advance written notice of intended audits, but no less than ten (10) business days.

36.0 **DISABILITY**

In accordance with the provisions of the Americans With Disabilities Act of 1990 (ADA), Seller warrants that it and any and all of its subvendors 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 Seller or any of its subvendors. Seller 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 Buyer harmless against any claims or allegations asserted by third parties or subvendors against Buyer arising out of Seller's and/or its subvendor's alleged failure to comply with the above-referenced laws concerning disability discrimination in the performance of this agreement.

37.0 **DISPUTE RESOLUTION**

If either Buyer or Seller has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation upon written consent of authorized representatives of both parties in accordance with the Industry Arbitration Rules of the American Arbitration Association or other applicable rules governing mediation then in effect. If the parties cannot resolve the dispute through mediation, then either party shall have the right to exercise any and all remedies available under law regarding the dispute.

Revised November 20, 2014

ATTACHMENT B

CONFLICT OF INTEREST DISCLOSURE REQUIREMENT

Pursuant to Chapter 176 of the Local Government Code, any person or agent of a person who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity (i.e. The City) must disclose in the Questionnaire Form CIQ ("Questionnaire") the person's affiliation or business relationship that might cause a conflict of interest with the local governmental entity. By law, the Questionnaire must be filed with the Fort Worth City Secretary no later than seven days after the date the person begins contract discussions or negotiations with the City, or submits an application or response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. Updated Questionnaires must be filed in conformance with Chapter 176.

A copy of the Questionnaire Form CIQ is enclosed with the submittal documents. The form is also available at <http://www.ethics.state.tx.us/forms/CIQ.pdf>.

If you have any questions about compliance, please consult your own legal counsel. Compliance is the individual responsibility of each person or agent of a person who is subject to the filing requirement. An offense under Chapter 176 is a Class C misdemeanor.

ATTACHMENT B (CONTINUED)

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor or other person doing business with local governmental entity		
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.</p> <p>By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. <i>See</i> Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person violates Section 176.006, Local Government Code.</p> <p>An offense under this section is a Class C misdemeanor.</p>	<p>OFFICE USE ONLY</p> <p>Date Received</p>	
<p>1. Name of person doing business with local governmental entity.</p>		
<p>2.</p> <p><input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>		
<p>3. Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.</p>		
<p>4. Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.</p>		

ATTACHMENT B (CONTINUED)

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

Page 2

5. Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.)

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?

Yes No

B. Is the filer of the questionnaire receiving or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local governmental entity?

Yes No

C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes No

D. Describe each affiliation or business relationship.

6. Describe any other affiliation or business relationship that might cause a conflict of interest.

7.

Signature of person doing business with the governmental entity

Date

ATTACHMENT C

CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS

Section 2-14 of the Fort Worth Code of Ordinances authorizes the City Council, when considering competitive sealed bids, to enter into a contract for certain purchases with a bidder whose principal place of business is in the corporate limits of the City of Fort Worth and whose bid is within **3 or 5 percent** of the lowest bid, depending on the value of the request and goods or services requested, if the lowest bid is from a business outside the municipality and contracting with the local bidder would provide the best combination of price and other economic benefits to the municipality.

Requests to be considered a local business must be submitted on this form with bid packages to be considered by the City of Fort Worth. Questions should be addressed to the Purchasing staff listed in the bid or request package.

The Fort Worth City Council requires the following information for consideration of location of a bidder's principal place of business. Add additional sheets if needed to provide this information.

1. Locational Eligibility: Principal Place of Business in Fort Worth, Texas.

a. Do you have a Fort Worth office? If yes, identify address:

b. What percentage of estimated gross company sales (worldwide) are sales originating in Fort Worth? "Originating in Fort Worth" shall mean payable at the Fort Worth office. [must exceed 50%]

2. Economic Development opportunities resulting from contract.

a. Number of Fort Worth resident-employees? _____

b. Amount of City of Fort Worth ad valorem taxes (real and business personal property) paid by company (for prior tax year — Fort Worth office or former location, if Fort Worth office is newly-established)? _____

Certification of information:

The undersigned does hereby affirm that the information supplied is true and correct as of the date hereof, under penalty of perjury.

(Company Name) (Date)

(Signature) (Printed Name and Title)

**No Bid Sheet
For
Heating Ventilation and Air Conditioning Services
Invitation to Bid 17-0005
Due December 1, 2016**

If your firm chooses not to submit a quote for this procurement, please complete this form and submit to:

Camillia Ryan
Contract Buyer
City of Fort Worth
Purchasing Division
1000 Throckmorton Street
Fort Worth, Texas 76102
817-392-8440 (fax)

Please check the items that apply:

- Do not sell the item(s) required.**
- Cannot be competitive.**
- Cannot meet the Specifications highlighted in the attached Quote.**
- Cannot provide Insurance required.**
- Cannot provide Bonding required.**
- Cannot comply with Indemnification requirements.**
- Job too large.**
- Job too small.**
- Do not wish to do business with the City.**
- Other reason.**

Company Name:

Authorized Officer or Agent Signature:

Telephone: (_____) _____ FAX Number: (_____) _____