



REQUESTS FOR PROPOSALS (RFP)

CATERING SERVICES IN THE EVENT OF AN EMERGENCY OR DISASTER RFP #17-023

The City of League City is now accepting sealed proposals for Emergency Catering Services.

DEADLINE: Sealed qualification submittals must be received by **2:00 p.m., CST, Tuesday, May 23, 2017**. (The clock located at the receptionist desk in the lobby of City Hall will be the official time.) Applicant names of all proposals received will be read aloud on this date at City of League City, City Hall Executive Conference Room, 300 W. Walker Street, League City, TX 77573. Qualifications received after the deadline stated herein will not be opened and shall be considered void and unacceptable.

MARK ENVELOPE: #17-023 – *Emergency Catering Services*

DELIVERY ADDRESS: Please submit one (1) marked original and five (5) exact duplicate copies of your complete proposal along with one (1) electronic copy (CD or flash drive) properly labeled and clearly marked with the RFP number and description to:

City of League City
Purchasing Department
300 West Walker
League City, TX 77573
Monday – Thursday: 8:00 am to 6:00 pm
Friday: 8:00 am to 12:00 pm

Bids sent via courier must be sealed in a separate envelope inside of the mailer.

POINT OF CONTACT: All inquiries regarding this RFP must be made, in writing, to Kylie Box, Buyer, at kylie.box@leaguecitytx.gov. The City shall not be responsible for any verbal communication between any employee of the City and any potential firm. Only written requirements and qualifications will be considered.

The City of League City reserves the right to reject any and all bids, to waive irregularities, and to accept the bid deemed the most advantageous to the City.

Deadline for submission of questions is Tuesday, May 16, 2017 by 2:00 p.m.

Released Date: Monday, May 1, 2017



**City of League City
Request for Proposals #17-023
Emergency Catering Services**

1. Introduction:

The City of League City is soliciting proposals from qualified vendors to prepare and provide meals to authorized City personnel during any natural and/or man-made disasters. It is the intent of the City to select a single firm to accomplish all services outlined in this RFP.

1.1 Clarification and Interpretation of RFP

1.1.1 The words “must” or “will” or “shall” in this RFP indicate mandatory requirements. Taking exception to any mandatory requirement will be grounds for rejection of the proposal.

1.1.2 The City desires to avoid any misunderstanding where it is assumed that a feature is included in the proposal and turns out to be an optional, extra cost feature. As such, any question answered with an indication of compliance will be considered included at no additional cost. Any service that is referred to in the body of this response (does not pertain to attachments and brochures) will be considered included in the basic offer.

1.2 Purpose

The purpose of this RFP is to provide the minimum requirements, solicit proposals and gain adequate information from which the City may evaluate the Proposer’s products and services as they compare to other providers and as they pertain to the needs of the City’s organization as defined in this document.

2. Background Information:

The City of League City intends to establish a contract for Emergency Catering Services that will be utilized in the event of any man-made and/or natural disasters that directly affect the City of League City.

2.1 Location

- a. The City serves an area of approximately 55 square miles with a population of 100,000 and is located in Galveston County, 23 miles southeast of Houston, and the same distance northwest of the city of Galveston.

2.2 City Infrastructure

- a. The City is organized into forty (40) departments and provides a full range of municipal services to its citizens including fire (volunteer department) and police protection, emergency medical services, animal control and municipal court facilities, water and sanitary sewer utilities, the construction of streets, drainage and other infrastructure, recreational activities, swimming pools and athletic fields, public library and other facilities used for various cultural and civic activities. The City utilizes the services of a contractor in order to provide solid waste collection services and residential recycling.
- b. During a state of emergency, the Mayor assumes the leadership of the City. He is assisted by the Emergency Management Coordinator in addition to all the City department directors.

3. Scope of Work:

3.1 General

The City recognizes the vulnerability of its citizens to damage, injury and loss of life and property resulting from disasters. Such disasters require 24/7 responses from the City's emergency responders, City employees, various elected officials and appointed officials. Providing meals to these individuals is necessary in order for them to carry out their duties to the public effectively.

Proposer shall include all equipment, supervision, labor, materials, and supplies to accomplish the full scope of work defined herein.

3.2 Catering Requirements

Proposer must be able to mobilize, stage, and provide the required services within twenty-four (24) hours of notice to activate by the City of League City. Where possible, and in accordance with the City's emergency operation plan for such events, the City will provide up to thirty-six (36) hours advance notice to the provider.

Depending upon the disaster circumstances, the proposer may be required to stage equipment at a pre-determined location. If so, the Proposer is solely responsible for ensuring proper and necessary set-up, relocation, maintenance, protection and/or removal of such equipment including periodic and final clean-up of the staging site(s) upon request by the City. Use of City facilities will be at no charge to the Proposer. However, if any damages occur at any staging areas directly resulting from such staging activities of the provider, the Proposer will be responsible for the repair of such damage to its pre-damaged condition.

Proposer shall provide appetizing, nutritional, and well balanced hot and cold meals at four (4) designated times a day throughout a 24-hour period; approximately

- 6:00 a.m. – 8:00 a.m.
- 11:00 a.m. – 1:00 p.m.
- 5:00 p.m. – 7:00 p.m.
- 11:00 p.m. – 1:00 a.m.

to include breakfast, lunch, dinner and a midnight meal. This service shall continue to serve four (4) meals per day, per employee, seven days a week, per the hours of operation until such disaster is deemed conclusive by the Mayor or his designee.

All provided meals shall include but are not limited to

- Condiments relevant to the meal provided
- Serving items such as disposable plates, utensils, and napkins
- Selection of beverages that are iced-down if required and cups if necessary
- Other meal related items

Proposer shall be responsible for all ingredient purchases, receipts, storage, issue, handling, processing, packaging, preparation, staging, and clean up before and after each meal. Approximate personnel to be fed are between 25 and 300 depending on the size and duration of the incident. Proposer shall also

provide kitchen equipment, staff and management sufficient to cater up to 300 meals per meal time and oversee all related activities.

3.3. Personnel/Hygiene

Proposer shall comply with all applicable state and county health and safety codes related to food preparation. All areas that the proposer operates shall be cleaned and sanitized on a regular basis per standard operating procedures. Proposer shall provide staff to supervise the daily cleaning and sanitation of the assigned areas and oversee maintenance of kitchen equipment. All employees of the proposer shall be instructed on proper hygiene and appropriate dress while catering/serving the City of League City.

Proposer shall provide trained and competent culinary experts to manage and supervise the preparation of all meals. All employees of proposer that are involved with food preparation will have food handler's training and certificate.

3.4 Administrative Responsibilities

All transactions must be recorded in accordance with the Federal Emergency Management Agency (FEMA) guidelines for reimbursement to the City. Proposer must be able to maintain all required documentation. Proposer must be able to work closely with the City to make sure that all needs are met to provide the proper operation of the site.

3.5 Certifications Required

All contractors must provide business certification, Proof of Liability Insurance, and Food Handlers Certification. Proof of Contractor Liability Insurance must be submitted with bid.

3.6 Additional Services

The City requests that each Proposer provide a complete list of additional services that can be provided in addition to those requested within this RFP.

4. Contract Terms and Conditions:

4.1 General

This contract is for a two (2) year initial term, with two (2) one-year renewal terms available upon the mutual agreement of the parties. All rates/fees shall be fixed for the contract term, and for any subsequent renewal terms – there will be no provision for price adjustments at any renewal, as the annually renewable agreement is meant as an option for either party to exit the contractual obligation at its discretion.

Either party to the contract may exercise its option not to renew the contract by providing written notice of its intent not to renew no later than 60 calendar days prior to the expiration date of the currently expiring term. Contractual provisions within any proposal requiring a longer advance notice of intent not to renew other than the 60 days stated herein, and/or financial penalties for non-renewal will not be acceptable to the City. Additionally, any “evergreen” renewal provisions contained in vendor-provided agreements to their proposal, beyond the four (4) year maximum term stated herein, will not be acceptable to the City. Refusal by a proposer to amend any of the prohibited provisions described in this section may be grounds for rejection of the subject proposal.

4.2 Indemnification

It is understood that any resulting contract executed will contain the following language:

It is further agreed that the firm (separately and collectively the “Indemnitee”) shall indemnify, hold harmless, and defend the City, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney’s fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the firm under this contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Firm, or any third party.

4.3 Release

It is understood that any resulting contract executed will contain the following language:

The firm assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the firm’s work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by insurance and regardless of whether such injury, death, loss or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the firm, or any third party.

4.4 Termination of Contract

The City of League City reserves the right to terminate the contract without cause upon advance written notice thirty (30) days prior to the date of termination, in the event the awarded proposer performs any of the following prohibited practices, and violates these specification:

- a) By failing to pay insurance, liens, claims, or other charges.
- b) By failing to pay any payments due the City, State or Federal Government from the successful bidder or its principals, including, but not limited to payments identified in this agreement or any taxes, fees, assessments, or liens.
- c) By the institution of voluntary or involuntary bankruptcy proceedings against the successful bidder or upon dissolution of the firm or business.
- d) By violation of any provision of the agreement.
- e) By repeated instances of failing to respond in a timely manner to City complaints, issues, questions regarding the scope of work for this project - timely shall be construed to be within 8 business hours of any email or phone call related to the issue.
- f) By failing to make adequate arrangements for an emergency call.
- g) By providing substandard services, or work the City deems to be otherwise unacceptable.
- h) By the repeated occurrence of undesirable practices, it is agreed that there would be multiple dialogues with the subject vendor to identify remedy(s) prior to the initiation of any action to terminate.

Such termination is in addition to and not in lieu of any other remedies that the City may have in law or equity. Proposer, in submitting this proposal, agrees that the City shall not be liable to prosecution for damages in the event that the City declares the proposer in default.

4.5 Management

Should there be a change in ownership or management; the contract shall be canceled unless a mutual agreement is reached with the new owner or manager to continue the contract with its present provisions and pricing. This contract is non-transferable by either party.

5. Instructions for Bid Submittal:

5.1 General

This section outlines specific instructions for proposal submissions. **Proposers not adhering to these instructions shall be disqualified without further consideration.**

At the public opening, there will be no disclosure of contents to competing firms, and all proposals will be kept confidential during the negotiation process. Except for trade secrets and confidential information which the firm identifies as proprietary, all proposals will be open for public inspection after the contract award. All proposals become the property of the City of League City.

The City of League City requires comprehensive responses to every section within this RFP. Conciseness and clarity of content are emphasized and encouraged. Vague and general proposals will be considered non-responsive and will result in disqualifications. To facilitate the review of the responses, Firms shall follow the described proposal format. The intent of the proposal format requirements is to expedite review and evaluation. It is not the intent to constrain Vendors with regard to content, but to assure that the specific requirements set forth in this RFP are addressed in a uniform manner amenable to review and evaluation. Failure to arrange the proposal as requested may result in the disqualification of the proposal. ***It is requested that proposals be limited to no more than 50 pages, excluding resumes and sample documents.*** All pages of the proposals must be numbered and the proposal must contain an organized, paginated table of contents corresponding to the sections and pages of the proposal.

5.2 Project Timeline

The vendor/contractor selection process will follow the timeline shown below. Estimated key milestone dates for the completion of the project are also included:

Request for Proposals Issued: May 1, 2017

Deadline for Submitting Questions: Tuesday, May 16, 2017 by 2:00 p.m.

Proposal Submission Deadline: Tuesday, May 23, 2017 by 2:00 p.m.

Selection Process: May 23 – May 31, 2017

Planned Award of Contract: June 2017

5.3 TAB A – Qualifications and Experience

- 5.3.1 Briefly introduce your organization, providing a summary of the administration and staffing of your agency, including multiple offices, if applicable. Provide an organizational chart indicating the positions and names of the core management team which will undertake this engagement. Include the number and nature of the staff to be employed in the performance of this service. Include resumes, any professional designations, affiliations, certifications and/or licenses, etc.
- 5.3.2 Describe the experience of your organization in the last thirty-six (36) months in performing services of similar size and scope.
- 5.3.3 Give a detailed description of your facility. Photos and other printed material can be used to aid in your description.
- 5.3.4 Provide sufficient documentation that your organization is well versed in FEMA documentation and reimbursement.

5.4 **TAB B – Project Methodology**

- 5.4.1 Describe, in detail, how the service will be provided. Include a mobilization response time once a disaster is declared.
- 5.4.2 Submit clarification of services provided – preparation of meals, serving of meals, delivery of meals offsite, ratio of personnel per persons being fed/served.
- 5.4.3 Provide a list of menu items that can be prepared and provided for this service. Include food options for employees with food restrictions, i.e. diabetics, gluten, vegetarian, etc.
- 5.4.4 Submit information on bag lunch options and information on availability of meals that can be delivered to offsite personnel upon request.
- 5.4.5 Submit a list of responsibilities the City would need to provide to the proposer to accomplish this service. i.e. portable water, gray water, electrical source, etc.
- 5.4.6 Submit plans in the event that the City requires a mobile kitchen(s)
 - Location for set up – Hometown Hero's Park, 1001 E. League City Pkwy

5.5 **TAB C – Rates, Fees and Expenses**

- 5.5.1 The proposer shall provide information relative to providing the services outlined herein. The proposal shall include a flat rate cost per meal / per person per day. Other services may be listed and priced separately. Pricing shall include
 - all direct and indirect costs including all out-of-pocket expenses
 - meals, beverages, utensils, plates, cups, condiments and distribution
 - essential items and products associated with turnkey food service.

All additional meals for non-residential site personnel and guest will be billed at a flat rate per person per meal per day.

The City is not responsible for expenses incurred in preparing and submitting a proposal. Such costs shall not be included in the proposal.

5.6 **TAB D – References**

- 5.6.1 Provide at least four (4) references for governmental agencies for which you have provided this type of services. Include the name of the agency, contact name, telephone, email address, dates/length of the contract, and a brief summary of the work. Include a ratio of personnel per persons being fed/served. Also provide a description of any conflicts, which may have occurred during the service.

5.7 **TAB E – Conflict of Interest**

Provide a completed copy of the Conflict of Interest Questionnaire (Form CIQ).

The Texas legislature recently enacted House Bill 914 which added Chapter 176 to the Texas Local Government Code. Chapter 176 mandates the public disclosure of certain information concerning persons doing business or seeking to do business with the City of League City, including affiliations and business and financial relationships such persons may have with City of League City officers. A copy of the form is attached and a complete text of the law is available at: City of League City, City Hall, Purchasing Department, 300 W. Walker St, League City, TX 77573 or at the Texas Ethics Commission website at

https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm

By doing business or seeking to do business with the City of League City including submitting a response to this RFP, you acknowledge that you have been notified of the requirements of Chapter 176 of the Texas Local Government Code and you are representing that you are in compliance with them.

Any information provided by the City of League City is for information purposes only. If you have concerns about whether Chapter 176 of the Texas Local Government Code applies to you or the manner in which you must comply, you should consult an attorney.

In completing the questionnaire, the following are the current City Council and City employees who will either recommend or approve award of the proposal.

City Council:	Mayor	Pat Hallisey
	Councilmember	Dan Becker
	Councilmember	Hank Dugie
	Councilmember	Larry Millican
	Councilmember	Todd Kinsey
	Councilmember	Greg Gripon
	Councilmember	Keith Gross
	Councilmember	Nick Long
City Staff:	City Manager	John Baumgartner
	Asst. City Manager	Rebecca Underhill
	Emergency Mgmt Coord.	Ryan Edghill
	Purchasing Manager	Shawna Tubbs
	Director of Public Works	Gabriel Menendez
	Asst. Chief of Police	Gary Ratliff
	Fire Chief	Gary Warren

5.8 **Required supporting documents:**

The following documents will need to be signed and included with your bid package:



NO BID NOTIFICATION
Bid #17-023
CATERING SERVICES
IN THE EVENT OF AN EMERGENCY OR DISASTER

SUPPLIER NAME: _____

ADDRESS: _____

AGENT'S NAME: _____ TELEPHONE: _____

The CITY OF LEAGUE CITY is interested in receiving competitive pricing on all items bid. We also desire to keep your firm as a bidder and a supplier of materials and equipment. Therefore, it is important for us to determine why you are not bidding on this item. We will analyze your input carefully and try to determine if future changes are needed in our specifications and procedures.

I did not bid for the following reasons: (PLEASE CHECK ONE OF THE LISTED REASONS)

- | | |
|-------|---|
| _____ | Do not supply the requested product. |
| _____ | Quantities offered are <u>too small</u> or <u>too large</u> to be supplied by your company.
(Please circle one of the underlined.) |
| _____ | Specifications are "too tight" or written around a particular product. (Please elaborate on this item.) |
| _____ | Cannot bid against <u>manufacturer</u> or <u>jobber</u> on this item. (Please circle one of the underlined). |
| _____ | Time frame for bidding was too short for my organization. |
| _____ | Not awarded a previous contract by the City when you felt you were low bidder. |
| _____ | Other _____ |

Failure to submit a bid or no-bid notification may result in removal from future bidders' lists.

If you wish to remain on the City's bid list for this item, please indicate:

_____ I wish to remain. _____ I do not wish to remain.



BIDDER CERTIFICATION AND ADDENDA ACKNOWLEDGEMENT

By signature affixed, the bidder certifies that neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, or institution has violated the anti-trust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

Bidder has examined the specifications and has fully informed themselves as to all terms and conditions. Any discrepancies or omissions from the specifications or other documents have been clarified with City representatives and noted on the bid submitted.

Bidder guarantees product offered will meet or exceed specifications identified in this RFP.

Bidder must initial next to each addendum received in order to verify receipt:

Addendum #1 _____ Addendum #2 _____ Addendum #3 _____

Addendum #4 _____ Addendum #5 _____ Addendum #6 _____

Bidder Must Fill in and Sign:

NAME OF FIRM/COMPANY: _____

REPRESENTATIVE's NAME: _____

REPRESENTATIVE's TITLE: _____

MAILING ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE & FAX NUMBERS: _____

E-MAIL ADDRESS: _____

AUTHORIZED SIGNATURE: _____

DATE: _____

6. Proposal Evaluation Process

All proposals will be screened by an evaluation committee. The evaluation committee shall screen and rate all of the responses that are submitted. Evaluation ratings will be on a 100-point scale and those proposers selected for a short list may be invited to attend an interview, at the proposers own expense. Any invitation for an oral presentation will be solely for the purpose of clarifying proposals received from each qualifying proposer, and will not represent any decision on the part of the evaluation committee as to the selection of a successful proposer.

The City's process is as follows:

- 6.1 City staff shall recommend an evaluation committee which will be used to evaluate all proposals. The City will evaluate all proposals based on the following criteria:
 - 6.1.1 **Qualifications and Experience – 40%**
 - 6.1.2 **Project Methodology – 25%**
 - 6.1.3 **Rates, Fees and Expenses – 25%**
 - 6.1.4 **References – 10%**
- 6.2 Once proposals are scored, the evaluation team will select finalists and decide whether interviews should be conducted. After interviews are performed, if needed, the evaluation team may request the finalists to submit a Best and Final Offer (BAFO).
- 6.3 Should negotiations be unsuccessful, the City shall enter into negotiations with the next, highest ranked Vendor. The process shall continue until an agreement is reached with a qualified Vendor.
- 6.4 This RFP does not commit the City to pay for any direct and/or indirect costs incurred in the preparation and presentation of a response. All finalist(s) shall pay their own costs incurred in preparing for, traveling to and attending interviews.
- 6.5 The City reserves the right to negotiate the final fee prior to recommending any Vendor for a contract.

The City reserves the right to use all pertinent information (also learned from sources other than disclosed in the RFP process) that might affect the City's judgment as to the appropriateness of an award to the best evaluated proposer. This information may be appended to the proposal evaluation process results.



CONTRACTOR'S CAPACITY TO PERFORM

Based on the provider's response to this solicitation, please identify dedicated resources available for contract fulfillment (use extra pages as necessary):

1. Availability to perform: _____

_____ (Include any additional personnel
or equipment/assets contractor will acquire to complete contract performance)

2. Equipment and operational items:

_____ (Identify by quantity and type any
equipment/assets allocated to contract performance)

3. Personnel: _____

_____ (Identify by quantity and category
any personnel assigned to contract performance)

4. Other Resources: _____

_____ (Identify any other resources to
be allocated to complete contract performance)



NOTICE: The City of League City has drafted the following document (SAMPLE) that will serve as the agreement between the parties in the event of a contract. Please review, edit and/or comment with your RFP response so that the City might consider BEFORE proceeding with a contract.

VENDOR AGREEMENT

This Agreement made this ____ day of _____, 2015, by and between City of League City (City), located in League City, Texas and _____, located at _____ (Contracting Party).

City and Contracting Party agree as follows:

1. CONTRACT TERM: The initial term of this Agreement shall be for a period of ____ year(s), from _____ to _____. The parties may mutually agree in writing to extend the term of the Agreement.

City reserves the right to terminate the Agreement at any time, with or without cause, on thirty (30) days prior written notice to Contracting Party.

2. CONTRACT DOCUMENTS/WORK STATEMENTS: The provisions of the attached City Request For Proposal - RFP dated _____, Contracting Party's response to RFP dated _____, and Exhibits _____ (if any), are hereby incorporated by reference and made a part of this Agreement. Contracting Party's representations and warranties regarding its Work are set forth in Exhibit _____ (if any). To the extent there are conflicts or inconsistencies between the documents, the order of priority in which documents will be interpreted is as follows:

The provisions of this document

3. CONTRACT FEE: In consideration for the mutual covenants contained herein, City shall pay Contracting Party for work satisfactorily performed as follows: _____. Total compensation shall not exceed _____. Payment terms for amounts due from City under the Agreement (including due dates, late fees and interest) are governed by Chapter 2251 of the Texas Government Code.

4. CONFLICT OF INTEREST: Contracting Party assures that to the best of its knowledge there exists no conflict of interest or appearance of a conflict between Contracting Party's family, business or financial interest and the services provided under this Agreement. Should this situation change during the term of this Agreement, Contracting Party will advise City of such change.

5. INDEPENDENT CONTRACTOR: This Agreement shall not be construed to create a partnership, joint venture, nor other agency relationship between the parties, who are independent of one another. The relationship of the Contracting Party to City is and shall continue to be that of an independent contractor, and no liability or benefits such as workers' compensation, pension rights or liabilities, insurance rights or liabilities, arising out of or related to an



employer/employee relationship, shall arise, or accrue to either party or either party's agent, subcontractor or employee, as a result of this Agreement or its performance. No relationship, other than that of independent contractor, shall be implied between the parties or between either party and the other party's agent, employee, or subcontractor, and the Contracting Party hereby agrees to hold City harmless from any such claims by it or its associates, and any cost or expense related thereto.

6. **DEFAULT:** In the event of a failure by Contracting Party to satisfactorily perform the services specified herein and/or a default by Contracting Party in abiding by the other terms and conditions of this Agreement, City may terminate the Agreement on written notice to Contracting Party and Contracting Party shall be liable for all damages, costs, and expenses (including attorney fees) incurred by City related to this default.

7. **ALTERNATIVE DISPUTE RESOLUTION:** The dispute resolution process provided for in Chapter 154 of the Texas Civil Practice and Remedies Code may be used, by City and Contracting Party to attempt to resolve any claim for breach of contract made by Contracting Party, to the extent it is applicable to the Agreement and not preempted by other law. Except as otherwise provided by law, nothing herein is a waiver by City or the State of Texas of the right to seek redress in a court of law.

8. **ASSIGNMENT:** The parties recognize that this contract is based upon the skill and expertise of the parties and therefore agree that the contract and the obligations thereunder may not be assigned or delegated without the written consent of the other party, except as expressly allowed by this contract.

9. **COMPLIANCE WITH LAW:** Contracting Party shall certify that he/she or it is in compliance with all applicable state and federal laws, including non-discrimination laws as it relates to the terms and conditions of the agreement.

10. **NON-APPROPRIATIONS:** Contracting Party understands that City is a governmental entity, and should the Legislature fail to provide funding for any period during the term of this contract, City shall be excused for all liability for payment. City is required to give Contracting Party written notice within thirty (30) days after learning that the funds will not be available. Upon receiving written notice from City, this contract will automatically terminate

11. **NOTICES:** Any notice given under this contract by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.

12. **OFFICIALS NOT TO BENEFIT:** No Mayor, Council-person, officer, director, employee, administrator and representative of City shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

13. **GOVERNING LAW/VENUE/STATUTE OF LIMITATIONS:** The validity of this Agreement and the interpretation of its terms and the applicable statute of limitations for any cause of action brought by or against City pursuant to the Agreement shall be governed by the laws of the State of Texas. Jurisdiction for any legal proceedings incident to this agreement shall lie in Galveston County, Texas.



14. **FORCE MAJEURE:** In the event of Force Majeure, City may terminate this agreement by written notice following such casualty and City shall not be responsible for any damages sustained by Contracting Party. Force Majeure shall mean fire, earthquake, flood, act of God, strikes or other labor disturbances, riots or civil commotion, litigation, terrorism, war or other acts of any foreign nation, power of government or government agency or authority, or any other cause like or unlike any cause above-mentioned which is beyond the control or authority of City.

15. **SUBCONTRACTS:** Any subcontracts and outside associates or consultants required by Contracting Party in connection with the services covered by this contract will be limited to such individuals or firms as were specifically identified and agreed to during negotiations. Contracting Party shall ensure that each subcontractor complies with all provisions of the Agreement and this Addendum. Contracting Party shall remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the products and/or services set forth in the Agreement.

16. **TAX EXEMPTION:** City and Contracting Party agree that City will not be required to pay any taxes for which it can demonstrate an exemption.

17. **CONFIDENTIALITY:** Subject to the Texas Public Information Act and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval.

18. **INTELLECTUAL PROPERTY:** Contracting Party represents that it has all intellectual property rights necessary to enter into and perform its obligations under the Agreement and shall indemnify, defend and hold harmless the State of Texas and City against any action, claim, liability, loss or expense related to such intellectual property rights and representations. Contracting Party will pay any damages attributable to such claim that are awarded against the State of Texas and/or City in a judgment or settlement.

19. **INDEMNIFICATION:** Contracting Party shall indemnify and hold harmless City, and each of its regents, officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities, including without limitation attorneys' fees and reasonable litigation costs, arising out of, connected with, or resulting from any acts or omissions of Contracting Party or any agent, employee, subcontractor, or supplier of Contracting Party in the execution or performance of this contract.

20. **INSURANCE:** For the entire term of the Agreement ("Term"), Contracting Party shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence. If, during the Term, Contracting Party will enter City property, Contracting Party shall also maintain the following insurance: (i) Worker's Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name City as Additional Insured. Contracting Party shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Contracting Party shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.



21. **AUDIT; INDEPENDENT AUDITS; RIGHT TO AUDIT; RETENTION; SUPPORTING DOCUMENTS:** The Contracting Party agrees and authorizes City and/or the State Auditor (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Contracting party agrees to cooperate with Auditors conducting such audits or investigations and to provide all information and documents reasonably requested. Contracting Party will include this provision in all contracts with permitted subcontractors.

22. **LIMITATIONS:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.

23. **SOVEREIGN IMMUNITY:** Except as otherwise provided by Texas law, neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement is a waiver of sovereign immunity by City.

24. **REPRESENTATIONS BY CONTRACTING PARTY:** Contracting Party represents and warrants that it will obtain and maintain in effect, and pay the cost of all licenses, permits or certifications that may be necessary for Contracting Party's performance of this Agreement. If Contracting Party is a business entity, Contracting Party warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Contracting Party.

25. **ELIGIBILITY TO RECEIVE PAYMENT:** Contracting Party certifies that, as a matter of State law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this representation is inaccurate.

26. **PAYMENT OF DEBT/DELINQUENCY TO STATE:** Contracting Party certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Contracting Party agrees that any payments owing to Contracting Party under the Agreement may be applied directly toward any debt or delinquency that Contracting Party owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.

27. **PRODUCTS AND MATERIALS PRODUCED IN TEXAS:** If Contracting Party will provide services under the Agreement, Contracting Party covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

28. **TRAVEL EXPENSES:** If the Agreement requires City to reimburse for travel expenses, the Contracting party shall invoice all requests for reimbursement in accordance with the State of Texas travel, meal and lodging reimbursement guidelines applicable to State of Texas employees.



29. RISK OF LOSS: All work performed by Contracting Party pursuant to the Agreement will be at Contracting Party's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work prior to City's acceptance, such loss or damage will be Contracting Party's responsibility.

30. PUBLICITY: Contracting Party shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.

31. LEGAL CONSTRUCTION/SEVERABILITY: In the event that any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this contract are declared to be severable. The Parties may mutually agree to renegotiate the contract to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.

32. NON-WAIVER: No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.

33. ENTIRE AGREEMENT: This contract constitutes the entire contract and supersedes all prior or contemporaneous agreements, whether written or oral, between the parties. Verbal representations not contained herein shall not be binding on the parties unless acknowledged by them in writing.

34. AUTHORITY: The person signing below on behalf of City and Contracting Party warrants that he/she has the authority to execute this contract according to its terms.

35. AMENDMENT: This Agreement may be changed, amended, modified, extended or assigned only by mutual consent of the parties provided that consent shall be in writing and executed by the parties hereto prior to the time such change shall take effect.

36. BINDING AGREEMENT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, City and Contracting Party, by and through their duly authorized officers and representatives, have executed this Agreement as of the date first above written.

CITY OF LEAGUE CITY

CONTRACTING PARTY:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____



TERMS AND CONDITIONS:

MULTIPLE CONTRACTORS: The City reserves the right to make a single award or multiple awards, whichever are in the best interest of the City.

DOCUMENTATION: Respondent shall provide with this response all documentation required by this RFP. Failure to provide this information may result in rejection of proposal.

TAX EXEMPTION: The City is not liable to respondent for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. The City's Tax Exemption Certificate will be furnished by the City on request of the respondent.

DISCUSSIONS: Formal or informal communication involving an oral or written exchange of information for the primary purpose of obtaining information essential for determining the acceptability of a proposal may occur. Any discussions of this nature are only intended to clarify the City's understanding of submissions.

BEST AND FINAL OFFER (BAFO): In a competitive negotiation, the final proposal submitted after negotiations or discussions are completed that contains the proposer's most favorable terms for price, services and products to be delivered. Sometimes referred to as BAFO and utilized during the Request for Proposal method of procurement.

EVALUATION PROCESS: It is the City's intent to enter into a contract with the Vendor that offers the "best value" for the desired project. After receipt of the proposals, City of League City will evaluate the proposals based upon the evaluation criteria set forth in the Request for Proposal. The City has, at its sole discretion, the ability to negotiate with the respondent determined to be the highest ranked after completion of the evaluations.

The City may elect to conduct discussions with the respondents deemed to be in the competitive range for award. If discussions are held, respondents identified in the competitive range will be given equal opportunity to discuss and submit revisions to their proposals. Revisions of proposals are accomplished by formally requesting Best and Final Offers (BAFOs) at the conclusion of discussions with a deadline set for receipt of BAFOs and including instructions as to exactly what should be submitted in response to the BAFO. After consideration of all BAFO responses, the City will select the top ranked respondent, and will enter into contract negotiations.

COSTS TO SUBMIT: The City of League City will not be liable for any costs incurred by any respondent in preparation of a submittal in response to this request, in conduct of a presentation, or any other activities related to the response of this RFP.

INSURANCE REQUIREMENTS: Contractor shall maintain, at his sole cost, at all times while performing work hereunder, the insurance and bond coverage set forth below with companies satisfactory to the Owner with full policy limits applying, but not less than stated. A certificate evidencing the required insurance and specifically citing the indemnification provision set forth in the Agreement shall be delivered to the Owner within fifteen (15) days that Notice to Proceed has been accepted by Contractor.



- (1) Workman's Compensation Insurance as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement with a limit of not less than \$1,000,000.00;
- (2) Employers Liability Insurance protecting contractor against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$100,000.00.
- (3) Comprehensive General Liability Insurance including products/completed operation with limits of liability of not less than: Bodily Injury \$1,000,000.00 per each person, \$1,000,000.00 per each occurrence/\$2,000,000.00 aggregate; Property Damage \$1,000,000.00 per each occurrence;
- (4) Excess Liability Insurance Comprehensive General Liability, Comprehensive Automobile Liability and coverage's afforded by the policies above, with the minimum limits of \$5,000,000.00 excess of specified limits;
- (5) Performance Bond and Payment Bond, furnished as guaranty of the faithful performance of the work and for the protection of the claimants for labor and material, each in the full amount of the Contract price, executed by a surety company or surety companies authorized to execute surety bonds under and in accordance with the laws of the State of Texas.

ADDENDA: Any interpretations, corrections or changes to this Request for Proposal and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the City of League City Purchasing Office. Any changes to specifications will be made in writing and posted on the City's website at: <http://leaguecity.com/bids.aspx>. Respondents shall acknowledge receipt of all addenda on the Bidder Certification/Addenda Acknowledgement form found within this document.

LATE PROPOSALS: Proposals received by the City after the submission deadline will be considered void and unacceptable. City of League City is not responsible for lateness or non-delivery of mail, carrier, etc. The date/time stamp at the Receptionist's desk at City of League City, City Hall shall be the official time of receipt.

ALTERING PROPOSALS: Proposals cannot be altered or amended after submission deadline. Any alterations or erasures made before opening time and must be initialed by the signer of the proposal, guaranteeing authenticity.

AWARD: The City has the right to award a contract upon the conditions, terms and specifications contained in a proposal submitted to the City for a period of up to ninety (90) days following the date specified for the opening of proposals.

Because the City is a governmental entity that must follow State and Federal laws and has an obligation to protect its taxpayers, the City requires that certain terms be included in the contract that result from this solicitation. Your response to this solicitation is an offer to contract with the City based on the terms, conditions, and specifications contained in this solicitation. If any of the mandatory contract terms are unacceptable to you, please do not respond to this solicitation.



CONFLICTING PROVISIONS: The contract consists only of the City prepared contract and any additional City or respondent contract documents incorporated by reference as a part of the contract. If a conflict or inconsistency exists between the City prepared contract and a document incorporated by reference, the City prepared contract controls. If a conflict or inconsistency exists between an additional contract document incorporated by reference, the City's additional contract document takes precedence over the respondent's additional contract document.

PAYMENT PROVISIONS: The City's payments under the contract, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code.

LIABILITY AND INDEMNITY: Any provision of the contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision. (Section 5, Article XI, Texas Constitution)

CONFIDENTIALITY: Any provision in the contract that attempts to prevent the City's disclosure of information subject to public disclosure under federal or Texas law or regulation, or court or administrative decision or ruling, is invalid. (Chapter 552, Texas Government Code)

CONTRACTUAL LIMITATIONS PERIOD: Any provision of the contract that establishes a limitations period that does not run against the City by law or that is shorter than two (2) years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

GOVERNING LAW AND VENUE: Texas law governs this contract and any lawsuit on this contract must be filed in a court that has jurisdiction in Galveston County, Texas.

CONFLICT OF INTEREST: No public official shall have interest in this contract except in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171.

ETHICS: The respondent shall not offer or accept gifts or anything of value or enter into any business arrangement with any employee, official or agent of City of League City. More than one proposal on any one contract from a respondent or individual under different names shall be grounds for rejection of all proposals in which the respondent or individual has an interest. One or all proposals will be rejected if there is any reason to believe that collusion exists between respondents.

Respondents must make every effort to comply Chapter 176 of the Texas Local Government Code. Chapter 176 mandates the public disclosure of certain information concerning persons doing business or seeking to do business with the City of League City, including affiliations and business and financial relationships such persons may have with City of League City officers.

By doing business or seeking to do business with the City of League City, including submitting a response to this Request for Proposals, you acknowledge that you have been notified of the requirements of Chapter 176 of the Texas Local Government Code and you are representing that you are in compliance with them.

Conflict of Interest Questionnaire found within this document must be completed and turned in with each proposal.



PURCHASE ORDER: City of League City may generate a purchase order to the successful respondent. The purchase order number must appear on all invoices, packing lists and all related correspondence. City of League City will not be responsible for any orders placed and/or delivered without a valid purchase order number.

DELIVERY: Any delivery and freight charges (FOB City of League City designated location) are to be included in the proposal price.

INVOICES: submitted for payment shall be addressed to: City of League City, Accounts Payable, 300 W. Walker St., League City, TX 77573, accountspayable@leaguecitytx.gov, and shall reference the City of League City approved purchase order number. Periodic payments will be made within thirty (30) days of invoice date or satisfactory delivery of the product or service, whichever is later, provided that all other requirements as detailed in the contract have been fulfilled.

WARRANTY: Successful respondent shall warrant that all items or services shall conform to the proposed specifications and all warranties as stated in the Uniform Commercial Code and be free from all defects in material, workmanship and title.

PATENTS/COPYRIGHTS: The successful respondent agrees to protect City of League City from claims involving infringements of patents and/or copyrights.

TERMINATION OF CONTRACT: The City of League City reserves the right to terminate the contract immediately in the event the successful respondent:

1. Fails to complete project in a timely manner agreed upon by both parties;
2. Otherwise fails to perform in accordance with this contract;
3. Becomes insolvent and/or files for protection under bankruptcy laws.

Such termination is in addition to and not in lieu of any other remedies that City of League City may have in law or equity. Respondent, in submitting this proposal, agrees that City of League City shall not be liable to prosecution for damages in the event that the City declares the respondent in default.

TERMINATION FOR CONVENIENCE: The contract may be terminated, without penalty, by either party by providing thirty (30) days' written notice to the other party.

NOTICE: Any notice provided by this RFP or required by law to be given to the successful respondent by City of League City shall be deemed to have been given and received on the next business day after such written notice has been deposited in the U. S. mail in League City, Texas, by Registered or Certified Mail with sufficient postage affixed thereto, addressed to the successful respondent at the address so provided; provided this shall not prevent the giving of actual notice in any other manner.

ASSIGNMENT: The successful respondent shall not sell, assign, transfer or convey this contract, in whole or in part, without the prior written consent of City of League City.



INTERLOCAL AGREEMENT: Chapter 791, Texas Government Code and Chapter 271, Subchapter F, Texas Local Government Code, authorizes cities to enter into Interlocal purchasing agreements to take advantage of potential cost savings resulting from cooperative purchasing efforts. Successful contractor(s) agree(s) to extend prices and terms to all entities, who have entered into or will enter into joint Purchasing Interlocal Cooperation Agreements with the City of League City.

CONTINGENCIES: Before submitting their bid, Proposers should make a careful examination of the scope of work and of the difficulties involved in its proper execution. Proposers should include in their proposal all costs they deem proper and sufficient to cover all contingencies essential to the installation of the proposed system, notwithstanding that every item or contingency is not specifically mentioned herein.