



It's real.

CITY OF SEGUIN

205 N. RIVER

SEGUIN, TEXAS 78155

INVITATION FOR BIDS – Bid No. LF-2025-55

Annual Contract for Hot Mix Asphalt

**Bids Due:
July 29, 2025, by 3:00 PM**



Invitation for Bid

Bid No: LF-2025-55
Bid Title: Annual Contract for Hot Mix Asphalt
Bids Due: Tuesday, July 29, 2025, by 3:00 p.m. Central Time

The City of Seguin is soliciting bids for an annual contract for the supply of Hot Mix Asphalt in accordance with the specifications contained herein. The City of Seguin will receive responses until the date and time indicated above. Bids shall remain valid for sixty (60) days.

Bids MUST be sent electronically through <http://www.bidnetdirect.com/texas/cityofseguin> until **3:00 p.m., Tuesday, July 29, 2025**. Bids will be opened and organization's names read publicly in the Council Chambers of City Hall at that time.

Bids received after the time and date set for submission will be disqualified.

The City of Seguin reserves the right to reject or accept any and all proposals and to waive informalities.

Respondents are encouraged to read the entire document prior to submitting a bid. For questions regarding this Invitation for Bid please submit them through **BidNet** no later than **July 16, 2025**. Any clarification or interpretation of the specifications, if made, will be made only by written addendum issued by the City of Seguin Purchasing Department. Once issued, an addendum becomes a part of the bid documents. The City will not be responsible for any verbal explanation or interpretation of the bid made or given prior to the award of the contract.

SPECIFICATIONS

1. SCOPE AND INTENT

It is the intent of the City of Seguin (City) to enter into annual contracts for the supply of Hot Mix Asphalt, Types B & D, for use by the City's Public Works Department. Because asphalt and its application are time and temperature sensitive, the City intends to award primary, secondary, and alternate provider contracts for hot mix asphaltic concrete to avoid delays in street maintenance work. The purpose of these specifications is to describe the minimum requirements of the contracts. These contracts are intended for routine and continuous usage.

2. TERM OF CONTRACT

The initial contract term shall begin October 1, 2025, pending City Council approval of said contract through September 30, 2026.

Contracts may be extended, subject to written notice of agreement between the City and the successful bidders for three (3) additional one-year (1) periods beyond the initial contract period.

The City of Seguin will provide vendors with written notice of renewal or desire to re-bid prior to contract expiration date. Either party may terminate this agreement with a thirty (30) day written notice.

At the time of contract renewal, the City shall increase the contract price by 3%

3. BASIS OF AWARD

The City of Seguin reserves the right to award a contract or contracts to a bidder or bidders on the basis of the best value offered per item that fully meets specifications. Bidder does not need to bid on all items in order to be considered responsive. The City reserves the right to award contracts on all items, no items, or any combination of items to one or more bidders as deemed most beneficial to the City.

Criteria for award to be considered may include the stated price, the bidders' plant distance from the City of Seguin, the quality of the bidder's goods or services, the extent to which the bidder's goods meet the City's needs, the bidder's past relationship with the City, and any other relevant requirement listed or implied in these specifications.

4. MATERIAL

The material shall conform to the most recently updated version of Texas Department of Transportation's Standard Specifications, Item 340 (and 341) Dense-Graded Hot-Mix Asphalt Highway (Small Quantity) Types B and D.

5. DELIVERY

The City will order materials on an as-needed basis in varying quantities to be delivered to locations within the City Limits of Seguin or to be picked up at the bidder's plant. The City's typical "pick-up" requirement is 20 tons or less while delivery is typically over 20 tons.

6. QUANTITIES

The estimated annual usage of materials includes 2,500 tons of Type B and 10,000 tons of Type D Hot Mix Asphalts. The City's typical maximum one-day lay-down is 500 tons.

The actual quantities and frequency of orders may increase or decrease and may fluctuate seasonally during the year. Bidders are advised that whether they use or do not use this data as an aid in submitting their proposal is entirely at their discretion. The City reserves the right to increase or decrease quantities for any item dependent on available funding and demand during the entire term of this contract. Quantities on the Bid Form are for bidding purposes only and do not reflect exact or guaranteed amounts.

7. PRICING AND INVOICING

Pricing will be per ton delivered to locations in Seguin, Texas and priced per ton picked up by City forces at the bidder's plant. The per-ton price is all inclusive and no other fees will be allowed. Examples of other fees not allowed in addition to the per-ton fee are fuel surcharges, taxes, delivery fee, demurrage, etc.

Submit invoices electronically at accountspayable@seguintexas.gov or to the City of Seguin, Accounts Payable, PO Box 591, Seguin, TX 78156-0591.

8. SUPPLY AVAILABILITY

Bidder shall have sufficient material to fill orders within the requested delivery time of the order. Supplier agrees to notify the City when out of stock on any items due to circumstances beyond its control. The City will provide as much advance notice of requirements as is practicable on an as-needed basis. The City reserves the right to use the alternate or other sources if needed to purchase material(s) if it is not available from the primary and/or secondary awarded supplier(s).

9. INSURANCE

The vendor shall, at all times during the period in which contract is in force and effect, provide and maintain insurance of the type and in limits as set forth in Attachment A. Commercial general liability insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. Bidders are required to submit the completed City of Seguin Insurance Requirement Affidavit form with their bid. **Prior to the commencement of any work under this Contract, Contractor shall furnish an original completed Certificate of Insurance to the City's Purchasing Manager.**

BID FORM
BID # LF-2025-55
HOT MIX ASPHALT ANNUAL CONTRACT

Hot Mix Asphalt	Quantity	Price per Ton	Extended Amount
Type D – Delivered	7,000 tons	\$ 67.00 /ton	\$ 469,000.00
Type D – Picked Up at Plant	3,000 tons	\$ 60.00 /ton	Type text here \$ 180,000.00
Type B – Delivered	1,500 tons	\$ 64.00 /ton	Type text here \$ 96,000.00
Type B – Picked Up at Plant	1,000 tons	\$ 58.00 /ton	Type text here \$ 58,000.00

Name of Business: Texas Materials Group

Plant Location: 850 Solms Quarry Rd or 2682 Wald Rd, New Braunfels, TX 78132

Phone: 210-265-3671

E-Mail: jboney@texasmaterials.com

Submittal Requirements

We want to remind all digital bidders of the required submission order for the bidding documents. Proper adherence to this order ensures smooth processing and evaluation of your bids. The City may not evaluate or consider submittals missing one or more of the following submission materials.

When submitting your bid digitally, please ensure that the following documents are included in the specified order:

1. **Bid Form:** Requires bidders to include their proposed price, project scope, and relevant details, ensuring a consistent and transparent bidding process.
2. **Bidder's Exception Form:** If there are any exceptions or deviations from the terms stated in the bid documents, please clearly outline them in this form.
3. **Certificate of Corporate Bidder:** This document verifies the legal status of your corporation as an eligible bidder.
4. **CIQ Form:** The Conflict of Interest Questionnaire provides essential information about your company.
5. **Insurance Requirement Affidavit:** This affidavit confirms that you meet the insurance requirements specified in the bid documents.

Please ensure that all documents are correctly filled out, signed, and submitted in the order mentioned above.

Failure to adhere to this order may result in delays or complications during the evaluation process.

Thank you for your attention to this matter, and we look forward to receiving your bids.

ADDENDUM FORM
Bid # LF-2025-55

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

ADDENDUM NO. 1 DATED 7/15/2025 ADDENDUM NO. 4 DATED _____

ADDENDUM NO. 2 DATED 7/17/2025 ADDENDUM NO. 5 DATED _____

ADDENDUM NO. 3 DATED _____ ADDENDUM NO. 6 DATED _____

- The Undersigned affirms that it is duly authorized to submit this bid, that this bid has not been prepared in collusion with any other bidder, and that the content of this bid as to prices, terms, or conditions of said bid has not been communicated to any other bidder prior to the official opening of this bid.
- The Undersigned certifies that pursuant to Section 2270.002 of the Texas Government Code, Bidder does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation.
- The Undersigned certifies that pursuant to S.B 19, Bidder does not boycott energy companies and will not boycott energy companies during the term of the contract.
- The Undersigned certifies that pursuant to S.B. 13, Bidder does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

Texas Materials Group
Company Name

1320 Arrow Point Dr, Suite 600
Address

Cedar Park, TX 78613
City, State, Zip Code

210-970-2109
Phone No.

Email Address: jboney@texasmaterials.com


Authorized Signature

Jason Boney
Printed Name

Sales Manager
Title

7/28/2025
Date

BIDDER'S EXCEPTION FORM
Bid # LF-2025-55

This form must be completed and signed by an authorized representative of the company. Failure to do so may cause total bid to be rejected. If no exceptions are to be proposed, indicate by stating "No Exceptions to Specifications" and sign in the appropriate space.

STATEMENT OF BIDDER:

WE PROPOSE THE FOLLOWING EXCEPTIONS TO THE SPECIFICATIONS:

<u>SECTION</u>	<u>PAGE/ PARAGRAPH #</u>	<u>EXCEPTION</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

NOTE: If additional pages are needed, attach to the back of this page and note "See Page 2-Deviations" on this page.

Texas Materials Group

Company Name



Authorized Signature

CERTIFICATE OF CORPORATE BIDDER

CERTIFICATE OF CORPORATE BIDDER

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

Of the corporation named as Bidder herein; that _____ who signed
this bid on behalf of the Bidder, was then _____ (title) of said corporation;
that said bid was duly signed for and on behalf of said corporation by authority of its governing body and is
within the scope of its corporate powers.

Signature of Officer: _____

Type or Print Name: _____

Title of Officer: _____

CERTIFICATE OF CORPORATE BIDDER

CERTIFICATE OF CORPORATE BIDDER

I, DEAN BUCHANAN, certify that I am ASST/Secretary (title)

Of the corporation named as Bidder herein; that JASON BUREY who signed
this bid on behalf of the Bidder, was then SALES MANAGER (title) of said corporation;
that said bid was duly signed for and on behalf of said corporation by authority of its governing body and is
within the scope of its corporate powers.

Signature of Officer: [Signature]

Type or Print Name: DEAN BUCHANAN

Title of Officer: ASST Secretary

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

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

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

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

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

OFFICE USE ONLY

Date Received

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

Texas Materials Group

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

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

N/A

Name of Officer

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

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

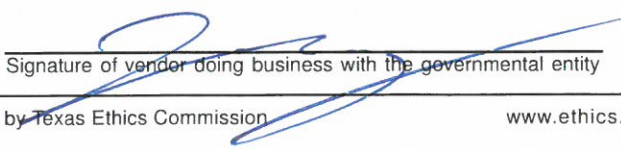
☐ Yes ☒ No

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

☐ Yes ☒ No

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

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

7 
Signature of vendor doing business with the governmental entity

7/28/2025

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

(2) the vendor:

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

(i) a contract between the local governmental entity and vendor has been executed;
or

(ii) the local governmental entity is considering entering into a contract with the vendor;

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

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

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

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

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

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

(3) has a family relationship with a local government officer of that local governmental entity.

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

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2025-1342406

Date Filed:
07/28/2025

Date Acknowledged:

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

Texas Materials Group Inc
Cedar Park, TX United States

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

City of Seguin

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

LF-2025-55
hot mix asphalt & delivery

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Texas Materials Group Inc	Cedar Park, TX United States		X

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Jason Boney, and my date of birth is 10/08/1980.

My address is 1320 Arrow Point Suite 600, Cedar Park, TX, 78613, USA.
(city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the 28 day of July, 2025.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

GENERAL CONDITIONS OF BIDDING

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

1. DEFINITION OF TERMS

- A. "Bid documents" mean the entire packet of documents provided to bidders, including, but not limited to the General Conditions of Bidding, General Conditions of Agreement, General and/or Technical Specifications, Special and Supplementary Conditions, Information to Bidders, Bid Form(s) and any Addendum.
- B. "Bidder" means a person or firm submitting a bid, proposal, or quote to provide equipment, material, and/or services necessary in the performance of these specifications and competing for award of a contract.
- C. "Bid" or "Proposal" means an offer to perform or provide the requirements specified herein. "Furnish" or "provide" means to supply, equip, and deliver the specified equipment, material and/or services to the Purchaser.
- D. "Formal Bid" is a formally advertised solicitation for acquiring goods, services, and construction that requires a public opening of sealed bids or proposals, generally \$50,000 or more.
- E. "Informal Bid" is a competitive bid or price quotation for supplies or services under \$50,000 that is conveyed by letter, telephone, or other means and does not require a sealed bid, public opening, or public reading of bids.
- F. "City", "Purchaser", or "Owner" shall refer to the City of Seguin, PO Box 591, Seguin, Texas 78156-0591.
- G. "Contract" means the contract awarded pursuant to this solicitation.
- H. "Contractor" or "Vendor" means the bidder to which a contract award has been made by the City.
- I. "Purchase Order" means the document issued by the City that creates a legal binding contract between the City and the Contractor and authorizes the Contractor to ship goods pursuant to the contract.

2. SUBMISSION OF BIDS

- A. All bids must be on blank forms furnished by the Purchasing Department and must be written in ink or typed. Pencil quotations will not be considered. Proposals must be submitted on the forms or in the format called for in specifications. Each must be executed personally by the bidder, or if executed by an agent, a power of attorney or other evidence of his authority to act on behalf of the bidder must accompany the bid. If the bidder is a corporation, the certificate of corporate bidder must be executed under the corporate seal by some duly authorized officer of the corporation other than the officers signing the bid. By execution of the bid, the bidder accepts all general and special conditions of the contract and the specifications.
- B. **Formal** sealed bids and proposals must be received at the date, time, and place specified in the bid document packaged in a sealed envelope (8 1/2" x 11" minimum) clearly marked with the bid or project name, bid number, and date/time of opening, unless otherwise specified. An early postmark will not

suffice. Bids and proposals will be publicly opened and read followed by evaluation and award at a later date. **Formal bids and proposals (\$50,000 or higher) may NOT be faxed or submitted via e-mail.**

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

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

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

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

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

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

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

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

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

3. WITHDRAWAL OF BIDS

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

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

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

4. GENERAL CONDITIONS

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

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

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

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

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

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

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

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

5. DESCRIPTION OF GOODS

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

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

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

6. PREPARATION OF BID

Bidders will prepare bids in accordance with the following:

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

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

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

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

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

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

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

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

7. BID DEPOSIT

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

8. EXCEPTIONS

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

9. ADDENDA

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

10. REJECTION OF BIDS

A. The City of Seguin reserves the right to accept or reject any or all bids, and to waive any informalities and technicalities. The City of Seguin shall consider all factors it believes to be relevant in

selecting the offer that provides the best value for the City including, but not limited to, the offered price. Causes for bidder disqualification and rejection of bids may include, but shall not be limited to:

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

11. AWARD

A. The City reserves the right to award a bid or contract to the bidder who provides goods or services at the best value for the City. In determining the best value for the City, the City may consider the following to include but not limited to:

1. Price
2. Reputation of Bidder
3. Work Experience of Bidder
4. Quality of bidder's goods and services
5. Conformance to specifications
6. Bidder's past relationship with the City
7. Total estimated Long-Term Cost in a contract with Bidder
8. Crew availability
9. Material Delivery

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

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

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

between the Contractor and the City.

12. CONTRACT

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

B. No further documentation is required, although the contracting parties may supplement the contract with further documentation. By submitting a bid or proposal, the vendor agrees to comply with the Terms and Conditions and other requirements set forth in the Bid Documents and to be further bound to the representations and information the vendor provides in the response.

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

13. RESERVATIONS

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

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

B. Reissue a bid invitation or proposal;

C. Procure any item by other allowable means;

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

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

14. WARRANTIES

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

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

C. SAFETY WARRANTY: Contractor warrants that the goods sold to the City conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA) as amended. In the event the goods do not so conform, the Contractor must correct or

replace the goods at the Contractor's expense. If the Contractor fails to do so within a reasonable time, the City, at its discretion, may cause the correction to be made at the Contractor's expense, or may return the goods at the Contractor's expense and terminate this contract.

15. PROTESTS

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

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

C. The protest may be delivered in person to the Purchasing office located at 211 North River, Seguin, Texas, or by certified mail, return receipt requested, to the following address: City of Seguin, Purchasing Department, ATTN: Purchasing Manager, PO Box 591, Seguin, Texas 78156-0591.

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

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

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

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

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

16. SHIPMENT & DELIVERY

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

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

C. The title and risk of loss of the goods will not pass to the City until receipt and acceptance takes place at the FOB point. The City department receiving deliveries or issuing purchase orders under this contract will inspect and accept any and all deliveries made and may reject those items which are damaged or which do not conform to the specifications. The Contractor is responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries at no additional cost.

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

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

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

17. REJECTIONS

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

B. All articles enumerated in the proposal shall be subject to inspection or delivery by an officer designated for the purpose and if found inferior to the quality called for, or not equal in value to the department's samples, or deficient in weight, measurements, workmanship or otherwise, this fact shall be reported to the Purchasing Manager who shall have the right to reject the whole or any part of the same.

18. PAYMENTS

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

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

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

C. The invoice requirements stated herein shall not be read to disallow or exclude other information

that may be otherwise required or requested by the City. Such information required herein must be submitted only on an invoice and not in any other non-invoice form or document.

19. ASSIGNMENT

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

20. WAIVER

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

21. FORCE MAJEURE

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

22. GRATUITIES

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

23. TERMINATION

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

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

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

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

24. ENTIRETY OF AGREEMENT/AMENDMENTS

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

25. SEVERABILITY

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

26. INSURANCE

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

27. INDEMNITY

THE VENDOR WILL INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND ITS EMPLOYEES, AGENTS, OFFICERS AND SERVANTS FROM ANY AND ALL LAWSUITS, CLAIMS, DEMANDS AND CAUSES OF ACTION OF ANY KIND ARISING FROM THE NEGLIGENT OR INTENTIONAL ACTS ERRORS OR OMISSIONS OF THE VENDOR, ITS OFFICERS, EMPLOYEES OR AGENTS. THIS WILL INCLUDE, BUT NOT BE LIMITED TO, THE AMOUNTS OF JUDGMENTS, PENALTIES, INTEREST, COURT COSTS, REASONABLE LEGAL FEES, AND ALL OTHER EXPENSES INCURRED BY THE CITY ARISING IN FAVOR OF ANY PARTY, INCLUDING THE AMOUNTS OF ANY DAMAGES OR AWARDS RESULTING FROM CLAIMS DEMANDS AND CAUSES OF ACTION FOR PERSONAL INJURIES, DEATH OR DAMAGES TO PROPERTY ALLEGED OR ACTUAL INFRINGEMENT OF PATENTS, COPYRIGHTS, AND TRADEMARKS AND WITHOUT LIMITATION BY ENUMERATION, ALL OTHER CLAIMS, DEMANDS, OR CAUSES OF ACTION OF EVERY CHARACTER OCCURRING, RESULTING, OR ARISING FROM ANY NEGLIGENT OR INTENTIONAL WRONGFUL ACT, ERROR OR OMISSION OF THE VENDOR OR ITS AGENTS OR EMPLOYEES. THIS OBLIGATION BY THE VENDOR WILL NOT BE LIMITED BY REASON OF THE SPECIFICATION OF ANY PARTICULAR INSURANCE COVERAGE REQUIRED UNDER THIS AGREEMENT.

28. PATENTS

The bidder agrees to indemnify and save harmless the City, the Purchasing Manager, and his/her assistants from all suits and actions of every nature and description brought against it or any of them, for or on account of the use of patented appliances, products or processes, and he shall pay all royalties and charges which are legal and equitable. Evidence of such payment or satisfaction shall be submitted, upon request of the Purchasing Manager, as a necessary requirement in connection with the final estimate for payment in which such patented appliances, products or processes are used.

29. CONFIDENTIALITY

The City of Seguin is governed by the Public Information Act ("The Act"), Chapter 552 of the Texas Government Code. All information submitted by prospective bidders during the bidding process is subject to release under The Act. On each page where proprietary information appears, information considered confidential must be labeled. Failure to so label the proprietary or confidential information shall be considered as a waiver of any confidentiality rights or interests. Disclosure of requested information will be determined in accordance with the Texas Public Information Act. You are not encouraged to submit such data and information unless it is absolutely required to understand and evaluate your response. If such data and information is submitted, you agree that the

City shall not be liable for disclosure of such data and information and hereby release the City from any liability. In the event a request for public information is filed with the City which involves information labeled as confidential, you will be notified by the City of the request so that you will have an opportunity to contact the Attorney General as to why such information should not be released.

30. ANTI-LOBBYING PROVISION

Bidders are prohibited from directly or indirectly communicating with City Council members regarding the Bidder's qualifications or any other matter related to the eventual award of a contract for the services requested under this Invitation for Bids. Bidders are prohibited from contacting City staff members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff member. Any violation will result in immediate disqualification of the Bidder from the selection process.

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

31. CONFLICT OF INTEREST

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

32. CERTIFICATE OF INTERESTED PARTIES

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

33. ANTI-DISCRIMINATION IN EMPLOYMENT

The Bidder, if permitted, certifies complete compliance with the Federal Civil Rights Law and the American with Disabilities Act, agreeing to non-discrimination based on race, age, color, religion, disability, gender, ancestry, national origin, or place of birth in employment practices, programs and

services shall include, but not be limited to, the following employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other compensation; and selection for training, including apprenticeship.

34. COMPLIANCE WITH FEDERAL WAGE AND TAX LAWS

The Bidder shall comply with all Federal, State and local laws and ordinances relating to Social Security, Unemployment Insurance, Income Tax Withholding, Workers' Compensation, pensions and similar matters.

35. LOCAL VENDOR PREFERENCE POLICY

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

36. ANTI ISRAEL CERTIFICATION

In compliance with Texas legislature HB 89, by bidding on or accepting an order to provide goods or services to the City of Seguin, the vendor /supplier certifies that the company does not boycott Israel and will not do so at any time while doing business with the City of Seguin.

37. ENERGY BOYCOTT PROHIBITED

In compliance with Texas legislature S.B. 13 (Birdwell/P. King) – **Energy Boycott**: among other things, prohibits a city from entering into a contract with a value of \$100,000 or more that is to be paid from public funds with a company with more than 10 full-time employees for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

38. FIREARMS

In compliance with Texas legislature S.B. 19 (Schwertner/Capriglione) – **Firearms**: among other things, (1) prohibits a governmental entity from entering into a contract with a value of \$100,000 or more that is to be paid from public funds with a company with more than 10 full-time employees for the purchase of goods or services unless the contract contains a written verification from the company that it: (a) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (b) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and (2) provides that the prohibition in (1) does not apply to a city that (a) contracts with a sole-source provider, or (b) the city does not receive any bids from a company that is able to provide the required verification required by (1)

39. NOTICES

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

40. STATE AND FEDERAL FUNDED PROCUREMENTS

The City of Seguin follows State of Texas and Federal 2 CFR 200.318-326 and Appendix II to Part 200 procurement law and guidance in the purchasing and contract management of goods and services funded by state and/or federal funds. Additional policy guidance is contained in the City of Seguin Purchasing Policy which addresses the City's requirements pertaining to the procurement and

expenditure of local, state and federal funds.

41. QUESTIONS

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

ATTACHMENT A

(Revised 5/23/23)

INSURANCE

SECTION A. Prior to the approval of this contract by the City, CONTRACTOR shall furnish a completed Insurance Certificate to the Purchasing office. The certificate shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and shall furnish and contain all required information referenced or indicated thereon. CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE IS RECEIVED BY THE CITY OF SEGUIN'S PURCHASING DEPARTMENT, and no officer or employee of the City shall have authority to waive this requirement.

INSURANCE COVERAGE REQUIRED

SECTION B. CITY reserves the right to review the insurance requirements of this section during the effective period of the contract and to adjust insurance coverages and their limits when deemed necessary and prudent by CITY, based upon changes in statutory law, court decisions, or the claims history of the industry as well as the CONTRACTOR.

SECTION C. Subject to CONTRACTOR'S right to maintain reasonable deductibles in such amounts as are approved by CITY, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at CONTRACTOR'S sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to CITY, in the following type(s) and amount(s):

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation and Employer's Liability	Statutory
NOTE: For building or construction projects, and services provided at City-owned facilities, the successful Contractor shall meet the minimum requirements defined in the Texas Workers' Compensation Commission Rule 28 TAC §110.110 which follows this insurance attachment.	
2. Commercial General (public) Liability including coverage for the following:	
a. Premises operations	\$1,000,000 per occurrence
b. Independent contractors	\$2,000,000 aggregate
c. Products/completed operations	
d. Personal injury	
e. Advertising injury	
f. Contractual liability	
g. Medical payments	
h. Professional liability*	
i. Underground hazard*	
j. Explosion and collapse hazard*	
k. Liquor liability*	
l. Fire legal liability*	
m. City's property in Contractor's* care, custody, or control	
n. Asbestos specific liability*	
* Not required for this contract	
3. Comprehensive Automobile Liability insurance, including coverage for loading and unloading hazards, for:	\$1,000,000 per occurrence
a. Owned/leased vehicles	

- | | | | |
|----|-----------------------------|--------------------|--|
| | b. | Non-owned vehicles | |
| | c. | Hired vehicles | |
| 4. | Errors and Omissions | | \$1,000,000 per occurrence or claim |
| | insurance policy | | \$2,000,000 aggregate |
| | (when applicable) | | for the willful or negligent acts or omissions of any no less than |
| | | | officers, employees or agents thereof |
| 5. | Cyber | | \$2,000,000 |
| | (when applicable) | | |

ADDITIONAL POLICY ENDORSEMENTS

CITY shall be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by CITY, CONTRACTOR shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof.

REQUIRED PROVISIONS

CONTRACTOR agrees with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions.

- a. Name the City of Seguin and its officers, employees, and elected representatives as an Additional Insured(s), (as the interest of each insured may appear) to all applicable coverage.
- b. Provide for 30 days notice to City for cancellation, non-renewal, or material change.
- c. Provide for notice to City at the address shown below by registered mail.
- d. CONTRACTOR agrees to waive subrogation against the City of Seguin, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance.
- e. Provide that all provisions of this agreement concerning liability, duty, and standard of care together shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- f. For coverages that are only available with claims made policies, the required period of coverage will be determined by the following formula: Continuous coverage for the life of the contract, plus one year (to provide coverage for the warranty period) and an extended discovery period for a minimum of five years which shall begin at the end of the warranty period.

NOTICES

CONTRACTOR shall notify CITY in the event of any change in coverage and shall give such notices not less than thirty (30) days prior to the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE. All notices shall be given to CITY at the following address:

Purchasing Department
City of Seguin
P.O. Box 591
Seguin, Texas 78156

SECTION D. Approval, disapproval, or failure to act by CITY regarding any insurance supplied by CONTRACTOR shall not relieve CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate CONTRACTOR from liability.

WORKERS COMPENSATION INSURANCE
for
Building or Construction Projects and Services Provided at City-Owned Facilities
TEXAS WORKERS' COMPENSATION COMMISSION RULE 28 § 110.110

As required by the Texas Workers' Compensation Rule 28, §110.110, the Contractor shall accept the following definitions and comply with the following provisions:

Workers' Compensation Insurance Coverage

A. Definitions:

1. Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
2. Duration of the project-includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the City of Seguin.
3. Persons providing services on the project ("subcontractor" in Section 406.096) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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

C. The Contractor must provide a certificate of coverage to the City of Seguin prior to being awarded the contract.

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

E. The Contractor shall obtain from each person providing services on a project, and provide to the City of Seguin:

1. A certificate of coverage, prior to that person beginning work on the project, so the City of Seguin will have on file certificates of coverage showing coverage for all persons providing services on the project; and
2. No later than seven (7) days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.

G. The Contractor shall notify the City of Seguin in writing by certified mail or personal delivery, within ten (10) days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

- I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
1. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 2. Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project.
 3. Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 4. Obtain from each other person with whom it contracts, and provide to the Contractor:
 - a. A certificate of coverage, prior to the other person beginning work on the project; and
 - b. A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
 5. Retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
 6. Notify the City of Seguin in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the City of Seguin that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the City of Seguin to declare the contract void if the Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the City of Seguin.

As defined by the Texas Labor Code, Chapter 269, Section 406.096(e), building or construction is defined as:

1. Erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
2. Remodeling, extending, repairing, or demolishing a structure; or
3. Otherwise improving real property or an appurtenance to real property through similar activities.

The employment of a maintenance employee who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

**CITY OF SEGUIN
INSURANCE REQUIREMENT AFFIDAVIT**

To be Completed By Appropriate Insurance Agent

and submitted with bid proposal.

I, the undersigned Agent/Broker, certify that the insurance requirements contained in this bid document have been reviewed by me with the below identified Contractor. If the below identified Contractor is awarded this contract by the City of Seguin, I will be able to, within ten (10) days after being notified of such award, furnish a valid insurance certificate to the City meeting all of the requirements defined in this bid.

David Shafer

Agent (Signature)

David Shafer

Agent (Print)

Name of Agency/Broker: Liberty Mutual Insurance Co (insurance carrier)

Address of Agent/Broker: 500 N 3rd Street, Suite 300

City/State/Zip: Wausau, WI 54403

Agent/Broker Telephone #: (973) 548-6973

CONTRACTOR'S NAME: Texas Materials A CRH Company
(Print or Type)

NOTE TO AGENT/BROKER

If this time requirement is not met, the City has the right to invalidate the bid award and award the contract to the next lowest bidder meeting specifications. Should an awarded bid be invalidated the Contractor may be liable for breach of contract. If you have any questions concerning these requirements, please contact the Purchasing Manager for the City of Seguin at (830) 401-2451

