



# CITY OF SAN ANTONIO OFFICE OF FINANCE

## BID INSTRUCTIONS AND SALE TERMS AND CONDITIONS

By checking the acceptance box, Bid Submitter certifies that Bid Submitter is authorized to bind the Bidder to fully comply with and has read the entire Bid Instructions and Sale Terms and Conditions, including any and all Specifications, Special Provisions and attachments hereto, and agreed to the terms herein.

Section 141 of the Charter and Section 2-52 of the Ethics Code prohibits officials and employees who file financial disclosure statements required under Section 2-73 from participating in this program. As such executive team members, City Council members, the Mayor, Board and Commission members, appointed positions, executive secretaries, and any other employees who are required to file financial disclosure statements may not bid on City surplus items. A full listing of Section 2-73 individuals can be found at <http://www.sanantonio.gov/portals/0/files/ethics/CityOfficialListFY2015.pdf>. Furthermore, employees that are directly involved in the disposition of departmental assets or who manage the City's disposition program are additionally prohibited from bidding.

The City of San Antonio is offering items of surplus or salvage property listed on the City's Website for sale (hereafter referred to as "Equipment"):

### A. INSTRUCTIONS TO BIDDERS:

1. **Due Date for Bids.** Bidders may submit bids thru the City's website. All bids must be submitted no later than 9:00 P.M. Central time, on the closing date listed on the website.
2. The successful bidder shall make payment by cash, cashier's check, credit card, or ACH wire in the full amount of the bid total with applicable sales tax within five (5) working days of notification of award. Checks shall be made payable to the City of San Antonio. Payments must be received by the City at one of two locations; Finance Department Cashier, 4th Floor, 111 Soledad, San Antonio, TX 78205 or the Cliff Morton Development & Business Services Cashier, 1901 S. Alamo Street, San Antonio, TX 78204, and may not be made at other locations.
3. Bidder must remit sales and use tax to City at the time of payment, unless bidder is exempt. Bidders claiming an exemption from the payment of sales and use taxes in connection with the purchase of the Equipment must include a copy of a valid completed and fully executed exemption certificate with payment.
4. Bidder shall remove the Equipment from City, using bidder's own labor, material and tools, within ten (10) business days after notification of award. City personnel and equipment will not be available to perform these functions. Removal of Equipment must be performed during normal business hours.

## **B. TERMS AND CONDITIONS OF SALE**

1. The contract will be awarded to the highest responsive bidder whose bid, conforming to the Bid Instructions and Sale Terms and Conditions, is most advantageous to the City, price and other factors considered.
2. CITY reserves the right to withdraw the offer of sale at any time prior to award with no notice.
3. CITY reserves the right to reject any and all bids.
4. The City shall not be bound by verbal representations about the quality of the Equipment.
5. If Bidder fails to complete the sale as required herein, the City reserves the right to award the bid to the next highest responsive bidder. All bids shall remain firm for a period of 90 days from the Due Date for bids.
6. The title to the Equipment remains with City until payment is received and equipment removed.
7. CITY is selling and Bidder agrees to purchase all Equipment "as-is", "where is", with no warranties, either implied or express.

**EQUIPMENT IS BEING SOLD AS-IS WITHOUT WARRANTY OF ANY KIND AND CITY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY THE CITY OR ITS EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF CITY'S OBLIGATIONS HEREUNDER, AND BIDDER MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE.**

## **8. INDEMNIFICATION**

BIDDER covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to BIDDER'S activities under this Agreement, including any acts or omissions of BIDDER, any agent, officer, director, representative, employee, consultant or subcontractor of BIDDER, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers

or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT BIDDER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. In addition, Bidder agrees to indemnify, defend, and hold City harmless from any claim involving patent infringement, trademarks, trade secrets, and copyrights on goods supplied.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. BIDDER shall advise CITY in writing within 24 hours of any claim or demand against CITY or BIDDER known to BIDDER related to or arising out of BIDDER's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at BIDDER's cost. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving BIDDER of any of its obligations under this paragraph.

9. City may cancel this contract at any time after award for cause or convenience upon written notice to Bidder, prior to Bidder taking possession of the Equipment. City shall have no liability for costs incurred by Bidder prior to or due to cancellation. If contract is canceled, a refund of any payment made to the City by Bidder will be recorded as a payable and processed for payment to the Bidder.
10. Bidder shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the Finance Department. Any such assignment without prior approval shall be void ab initio.
11. This contract, together with its exhibits, if any constitute the final and entire agreement between the parties hereto and contain all of the term and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto, and duly executed by the parties.
12. Electronic Bid Equals Original. City and Bidder each agree that this transaction may be conducted by electronic means, as authorized by Chapter 322, Texas Business & Commerce Code, known as the Electronic Transactions Act.