

STANDARD TERMS AND CONDITIONS FOR PROCUREMENTS

The terms and conditions set forth in this request for proposal shall be incorporated into and be a part of any proposal submitted to the City of Corinth for the goods and/or services specified. No other terms and conditions shall apply unless approved in writing by the City of Corinth, Texas.

1. **ADDENDA:** Any interpretations, corrections or changes to the information or specifications will be made by addenda. Sole issuing authority of addenda shall be vest in the City of Corinth Purchasing Agent. Addenda will be posted at <https://cityofcorinth.bonfirehub.com>. It is the responsibility of the Respondent to check the Bonfire website for addenda. Respondents shall acknowledge receipt of all addenda by submitting a signed copy with their bid/proposal.
2. **ADVERTISING:** The successful Respondent shall not advertise or publish, without the City's prior approval, the fact that the City has entered into a contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the Federal, State, or local government.
3. **ALTERING BID/PROPOSAL PRICING:** Prices offered shall be submitted for units of quantity as specified in the bid/proposal document, extended and totaled. In the case of a discrepancy in the extended price, the unit price shall govern and control. Any alteration, strike-through or erasure made prior to bid/proposal opening shall be initialed by the signer of the bid/proposal, guaranteeing authenticity.

FOR BIDS ONLY: Prices offered **cannot** be altered or amended after the submission deadline. Bids may not be changed for the purpose of correcting an error in bid price after bid opening.

4. **ASSIGNMENT:** The successful respondent shall not sell, assign, transfer or convey the awarded contract, in whole or in part, without the prior written consent of the City.
5. **AWARD:** The City reserves the right to award by line item, section, or by entire bid/proposal; whichever is most advantageous to the City. The City may also consider administration costs when awarding to multiple vendors.

The City may award bids/proposals to the lowest responsive responsible vendor(s), or to the vendor(s) who provides goods or services at the best value to the City. If using the best value method, the selection criteria will be clearly identified in the bid/proposal document. The best value method may take into consideration, in whole or in part, by way of illustration and not limitation, the following criteria:

- A. The reputation of the respondent and of the respondent's goods or services;
- B. The quality of the respondent's goods or services;
- C. The extent to which the goods or services meet the City's needs;
- D. The respondent's past relationship with the City;
- E. The total long-term cost to the City to acquire the respondent's goods or services;
- F. Any relevant criteria specifically listed herein.

6. **BID/PROPOSAL SUBMITTAL:** The City utilizes Bonfire to advertise and receive bids/proposals electronically. Bids will be received electronically through Bonfire as specified in the bid/proposal packet.. Electronic submittals must be submitted through the Bonfire portal at <https://cityofcorinth.bonfirehub.com>; and must include all required information and attachments; with required signatures. All response documents must be uploaded and included with your submittal in order to be considered.
7. **BRAND NAME, CATALOG OR MANUFACTURER'S REFERENCE:** Any reference to brand name, catalog or manufacturer's reference is used to be descriptive, not restrictive, and is indicative of the type and quality the City desires to purchase. Bids/proposals on similar items of like quality may be considered if the bid/proposal is noted and fully descriptive brochures are enclosed. If notation of substitution is not made, it is assumed the respondent is proposing exact item specified. Successful respondent will not be allowed to make unauthorized substitutions after award.
8. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. The City of Corinth's Purchasing Agent will make all change orders to the contract in writing as allowed by law.
9. **COMMUNICATION:** The successful respondent shall direct all contact with the City through the Contract Administrator identified in the Contract. The Respondent will not directly respond to, make inquiries of, survey or solicit information from, or otherwise interact with any departments, divisions, employees, or agents of the City unless specifically approved, or requested by the Contract Administrator.
10. **COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION:** Pursuant to Texas Government Code Chapter 2252, Subchapter F, Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.
11. **CONFLICT OF INTEREST:** In compliance with Local Government Code §176.006, all vendors shall file a completed Conflict of Interest Questionnaire with the City's Purchasing Office.
12. **CONTRACT ADMINISTRATOR:** Under the contract, the City may appoint a contract administrator with designated responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and delivery. If appointed, the administrator will serve as liaison between the City and the successful contractor.

13. CONTRACT ENFORCEMENT:

- A. The City reserves the right to enforce the performance of any contract that results from an award of this bid/proposal packet. Enforcement shall be in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. Breach of contract authorizes the City to make an award to another respondent, purchase the service elsewhere and to charge the full increase in cost and handling to the defaulting contractor. Additionally, the City will remove the defaulting contractor from the City's list of approved vendors for a period of two years.
- B. Respondents who submit proposals for this service agree that the City shall not be liable to prosecution for damages in the event that the City declares the successful contractor in default.
- C. Any notice provided by this bid/proposal packet (or required by law) to be given to the successful Respondent by the City shall be conclusively deemed to have been given and received on the next day after such written notice has been deposited in the mail at the City of Corinth, by Registered or Certified mail with sufficient postage affixed thereto, addressed to the successful Respondent at the address provided in the bid/proposal; this shall not prevent the giving of actual notice in any other manner.
- D. The successful Respondent and the City agree that both parties have all rights, duties and remedies available as stated in the Uniform Commercial Code (UCC). In case of a conflict between the terms of this bid/proposal packet and the UCC, the bid/proposal packet will control.

14. DELIVERY:

- A. Delivery date is important to the City and may be required to be a part of each bid/proposal. The City considers delivery time to be that period elapsing from the time the individual order is placed until that order is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery to the City of Corinth. Failure of the respondent to meet guaranteed delivery dates or service performance could affect future City orders.
- B. The City may reject and refuse any delivery, which falls below the quality designated in the specifications. The cost of return and/or replacement will be at the Respondent's expense.
- C. The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Respondent fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. Pricing shall include all charges for freight, F.O.B. inside to specified delivery location.
- D. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Purchasing Agent, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.

15. ETHICS: The Respondent shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the City except in accordance with City Policy.

16. EXCEPTIONS/SUBSTITUTIONS: All proposals meeting the intent of this bid/proposal packet will be considered for award. Respondents taking exception to the instructions, specifications, terms and conditions or offering substitutions, shall state these exceptions in the section provided or by attachment as part of their bid/proposal. The absence of such a list shall indicate that the Respondent has not taken exceptions and shall hold the Respondent responsible to perform in strict accordance with the instructions, specifications, terms and conditions of the bid/proposal packet. The City of Corinth reserves the right to accept any and all or none of the exception(s)/substitution(s) deemed to be in the best interest of the City.

17. FELONY CRIMINAL CONVICTIONS: The Respondent represents and warrants that neither the Respondent nor the Respondent's employees have been convicted of a felony criminal offense, or under investigation of such charge, or that, if such a conviction has occurred, the Respondent has fully advised the City as to the facts and circumstances surrounding the conviction.

18. FORCE MAJEURE: *Force majeure* is defined as an act of God, war, strike, fire or explosion. Neither the successful Respondent nor the City is liable for delays or failures of performance due to *force majeure*. Each party must inform the other in writing with proof of receipt within three (3) business days of the occurrence of an event of *force majeure*.

19. INDEMNITY AGREEMENT: The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City,

that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (I) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where in injury, death or damage results from the negligence of the City. In the event any action or proceeding is brought against the City by reason of any of the above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.

20. **INVOICES:** Each invoice shall be fully documented as to the Contractor's/vendor's name and address, receiving department's name and address, labor, materials and equipment provided, if applicable, and must reference the City of Corinth purchase order number in order to be processed. No payments shall be made on invoices not listing a purchase order number. Invoices shall be mailed directly to the City of Corinth, Attention: Accounts Payable, 3300 Corinth Pkwy., Corinth, Texas, 76208.
21. **LATE SUBMITTALS:** The City will reject late bids/proposals. The City is not responsible for lateness or non-delivery of mail, carrier, etc. and the date/time stamp in the Purchasing Office shall be the official time of receipt. The Respondent is responsible for ensuring that packets are delivered to the Purchasing Office. Respondents may confirm receipt of packets by contacting Cindy Troyer, Purchasing Agent at 940-498-3286.
22. **MINIMUM STANDARDS FOR RESPONSIBILITY:** A prospective vendor must affirmatively demonstrate responsibility. The City may request representation and other information sufficient to determine respondent's ability to meet the minimum standards including but not limited to:
 - A. Have adequate financial resources or the ability to obtain such resources.
 - B. Ability to comply with the required or proposed delivery schedule.
 - C. Have a satisfactory record of performance.
 - D. Have a satisfactory record of integrity and ethics.
 - E. Be otherwise qualified and eligible to receive an award.
23. **NO BOYCOTT OF ISRAEL:** Pursuant to Texas Government Code Chapter 2270, the successful Respondent agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (i) either meets an exemption criteria under Section 2270.002; or it (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract. This requirement does not apply to sole proprietorships, companies with fewer than ten employees; or contracts that are less than \$100,000.00.
24. **NO BOYCOTT OF ENERGY COMPANIES:** Pursuant to Texas Government Code Chapter 2274, the successful Respondent verifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract. This requirement does not apply to companies with fewer than ten full time employees; or contracts that are less than \$100,000.00.
25. **NON-APPROPRIATION CLAUSE:** If the governing body of the City fails to specifically appropriate sufficient funds to make the payments due in any Fiscal Year under this Contract, an event of non-appropriation ("Event of Non-appropriation") will have occurred, the terms of this Contract will not be renewed, and Contractor or City may terminate this Contract at the end of the then current Fiscal Year, whereupon City will be obligated to pay those amounts then due subject to the provisions herein. Nothing in this Section or elsewhere in this Contract will be deemed in any way to obligate the City or create a debt of City beyond its current Fiscal Year. **CONTRACTOR HAS NO RIGHT TO COMPEL CITY TO LEVY OR COLLECT TAXES TO MAKE ANY PAYMENTS REQUIRED HEREUNDER, OR TO EXPEND FUNDS BEYOND THE AMOUNT PROVIDED FOR IN THE THEN CURRENT FISCAL YEAR OF CITY.**
26. **NONDISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES:** Pursuant to Texas Government Code Chapter 2274, the successful Respondent verifies that it 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 this contract against a firearm entity or firearm trade association. This requirement does not apply to companies with fewer than ten full time employees; or contracts that are less than \$100,000.00.
27. **PATENTS/COPYRIGHTS:** The successful Respondent agrees to protect the City from claims involving infringements of patents and/or copyrights.
28. **PAYMENT:** Will be made upon receipt and acceptance by the City for item(s) and/or service(s) ordered and delivered after receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Chapter 2251, Government Code.
29. **PRICES HELD FIRM:**
 - A. All prices quoted in the proposals will remain firm for a minimum of 90 days from the date of the proposal unless it is otherwise specified by the City of Corinth.
 - B. If during the life of the contract, the successful Respondent's net prices to other customers for the items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to the City.

30. **PURCHASE ORDER:** The City shall generate a purchase order(s) to the successful Respondent. The purchase order number must appear on all itemized invoices.
31. **QUANTITIES:** Quantities indicated on the Bid/Proposal Form are estimates based upon the best available information. The City reserves the right to increase or decrease quantities to meet its actual needs without any adjustments in bid/proposal price. Individual purchase orders will be issued on an as-needed basis.
32. **REFERENCES:** The City requests each Respondent to supply, with its bid/proposal, a list of at least three (3) references where their firm supplied like services within the last three to five years. It is preferred that the list identify municipalities that are customers of Respondent. For each reference, include the name of firm, address, contact employee of firm, with telephone number and e-mail address, what services are provided to this reference, and how long your firm has provided this service to the reference entity.
33. **RELEASE OF INFORMATION AND PUBLIC INSPECTION:** After sealed bids have been opened, bids are open for public viewing upon request. If the bid contains trade secrets or confidential information, the Respondent must specifically list that portion as confidential. All other parts of the bid are open for public viewing upon request.

For processes other than low bid or best value bid, only the names of respondents will be read aloud at the scheduled opening. Pricing information will not be released until after award of the contract.

34. **REQUIRED DOCUMENTATION:** In response to this bid/proposal packet, all required documentation must be provided.
35. **SALES TAX:** The City is exempt by law from payment of Texas Sales Tax and Federal Excise Tax. Our taxpayer identification number is 75-1453222.
36. **SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these instructions, specifications, terms and conditions, shall be held invalid, such holding shall not affect the remaining portions of these instructions, specifications, terms and conditions and it is hereby declared that such remaining portions would have been included in these instructions, specifications, terms and conditions as though the invalid portion had been omitted.
37. **SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of the specifications shall be made based on this statement.
38. **SUBCONTRACTORS:** The Contractor shall be the sole source of contact for the Contract. The City will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the Contract shall apply without qualification to any services performed or goods provided by any subcontractor.
39. **TAX/DEBT ARREARAGE:** The City shall pay no money upon any claim, debt, demand, or account whatsoever, to any person, firm or corporation, who is in arrears to the City for taxes or otherwise; and, the City shall be entitled to a counter-claim and offset against any such debt, claim, demand, or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts are due, shall affect the right, authority, and power of the City to offset the taxes or other debts against the same.
40. **TERMINATION FOR DEFAULT:** The City reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. The City reserves the right to terminate the contract in the manner set forth in the attached Contract.

As soon as practicable after receipt of notice of termination, the Company shall submit a statement showing in detail the pro-rated payment, in a form satisfactory to the City, that reflects the appropriate charges. The City shall then pay the charges as required by law.

41. **TERMINATION OF CONTRACT:** The contract shall remain in effect until contract expires, delivery and acceptance of products and/or performance of services ordered or terminated by either party with a ten (10) day written notice prior to any cancellation. The successful Respondent must state therein the reasons for such cancellation. The City may, by written notice to the selected company, cancel this contract immediately without liability to the selected company if it is determined by the City that gratuities or bribes in the form of entertainment, gifts, or otherwise contrary to City Policy, were offered or given by the successful proposing party, or its agent or representative to any City officer, employee or elected representative with respect to the performance of the contract.
42. **TRAVEL AND DIRECT CHARGES:** The City shall not compensate the Respondent for any travel costs incurred in delivery of services under the contract.
43. **VENUE:** Respondent shall comply with all Federal and State laws and City Ordinances and Codes applicable to the Respondent's operation under this contract. The resulting specifications and the contract herefrom shall be fully governed by the laws of the State of Texas, and shall be fully performable in Denton County, Texas, where venue for any proceeding arising hereunder will lie.
44. **WITHDRAWAL OF PROPOSAL:** A proposal may be withdrawn any time prior to the official opening, as long as the request is received in writing from an authorized representative.