



INVITATION FOR BIDS

HIGH MAST LIGHT FIXTURES WSDOT

Submit your **unpriced technical proposal** as a single PDF attachment to an email entitled “Proposal for High Mast Light Fixtures” to bids@cityofws.org, or submit a sealed hard copy proposal per page 5 instructions.

DEADLINE IS: 1:00 PM, FEBRUARY 28, 2024

ADVERTISEMENT FOR BIDS

Pursuant to North Carolina General Statute 143-129, sealed unpriced technical proposals endorsed “**High Mast Light Fixtures, FB24131**” will be received by City/County Purchasing, City Hall Room 324, 101 North Main Street, Winston-Salem, NC 27101 until the time and date noted above. The City reserves the right to reject any or all bids, and to waive informalities.

****This is a purchase only contract****

For the full bid document and/or instructions for submitting bids, contacting Darren Redfield at darrenmr@cityofws.org (preferred) or 336-747-6936 during normal office hours, Monday – Friday, 8:00 a.m. to 5:00 p.m. The End of Question Period is: 5:00 PM, February 15, 2024.

Procurement Method

This IFB will be conducted as a multistep competitive sealed bid consisting of Phase 1 – Unpriced Technical Proposals and Phase 2 – Price Proposal/Reverse Auction. The Buyer has partnered with eBridge to host this bidding event on its web-based bidding platform.

Phase 1 – Unpriced Technical Proposals: Bidders shall submit **unpriced** technical proposals, which include all requirements per this IFB no later than the IFB due date and time listed in the IFB Timeline. Pricing will only be accepted in Phase 2 during the reverse auction and only from Bidders whose unpriced technical proposals were found acceptable during Phase 1.

Phase 2 – Price Proposal/Reverse Auction: All pricing will **ONLY** be accepted during the live online reverse auction. Bidders with unpriced technical offers that were approved by the Buyer during Phase 1 will receive a Formal Invitation Email from eBridge to participate in the live online reverse auction scheduled for the date and time listed in the IFB Timeline. These Bidders will be required to complete a one-on-one bid system training session with eBridge prior to entering an initial bid.

During the live reverse auction pricing will be collected as follows:

Fixture	Quantity	Pricing Method
100 ft. light: ~63000 lum, ~750w, 480v, 5000k	9	\$ONLINE ONLY
80 ft. light: ~63000 lum, ~400w, 480v, 5000k	34	\$ONLINE ONLY
60 ft. light: ~63000 lum, ~400w, 480v, 5000k	8	\$ONLINE ONLY
Cobra head: ~19800 lum, ~124w, 480v, roadway Type III, 5000k	81	\$ONLINE ONLY
Total Bid Price		\$ONLINE ONLY

Pricing submitted during the online reverse auction shall be all-inclusive FOB to delivery location. No additional charges will be accepted.

Bidders must also review the attached eBridge Information and return the Electronic Bid Event Form as instructed. By responding to this IFB, you are accepting that if awarded a contract, you will be obligated to pay a three percent (3.0%) transaction fee to eBridge pursuant to the Electronic Bid Event Form and Terms and Conditions found in the eBridge Information.

IFB Timeline

PHASE 1		
Milestone Date	Milestone	Description
Wednesday, February 7, 2024	Bid Issued	Date bid is issued for public viewing.
Thursday, February 15, 2024 by 5:00PM ET	Questions Submitted	Deadline to submit questions, regarding response requirements, specifications or bidding process, via email to: darrenmr@cityofws.org
Tuesday, February 20, 2024	Answers Posted	Date answers to Bidder questions will be posted for public viewing.
Wednesday, February 28, 2024 by 1:00PM ET	Technical Proposal Due	Deadline to submit un-priced technical proposals as directed within this IFB.
PHASE 2		
Milestone Date	Milestone	Description
Friday, March 8, 2024	Formal Invitation Issued	Formal email notice to Bidders approved to participate in Phase 2 -Price Proposal/Reverse Auction.
Monday-Wednesday, March 11-13, 2024	Bid System Training	Timeframe in which interactive bid system tutorials will be scheduled between eBridge and approved Bidders.
Thursday, March 14, 2024 by 3:00PM ET	Initial Bid Due	Date by which initial/starting bids must be submitted into online bid system (eBridge will provide instructions for placing initial/starting bids during the interactive bid system training).
Friday, March 15, 2024 at 11:00AM ET	Reverse Auction	Date and time the live reverse auction event will open.

City/County Purchasing

NOTICE TO BIDDERS

This document is the entire bid package. Bidders may conduct any due diligence they feel is necessary prior to submitting a bid.

City Rights and Options

The City, at its sole discretion, reserves the following rights:

- To supplement, amend, substitute or otherwise modify this IFB at any time
- To cancel this IFB with or without the substitution of another IFB
- To take any action affecting this IFB, this IFB process, or the equipment subject to this IFB that would be in the best interests of the City
- To issue additional requests for information.

Public Records

Any material submitted in response to this IFB will become a “public record” once the bidder’s document(s) is opened and the bidder is determined to be a participant in the solicitation process and shall be subject to public disclosure consistent with Chapter 132, North Carolina Statutes. Bidders must claim any applicable exemptions to disclosure provided by law in their response to this IFB. Bidders must identify materials to be protected, and must state the reasons why such exclusion from public disclosure is necessary and legal. The City reserves the right to make all final determination(s) of the applicability of North Carolina General Statutes § 132-1.2, Confidential Information.

Familiarity with Laws and Ordinances

The submission of a bid on the equipment requested herein shall be considered as a representation that the bidder is familiar with all federal, state, and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the bidder discovers any provisions in the IFB documents that are contrary to or inconsistent with any law, ordinance, or regulation, it shall be reported to the City in writing without delay.

Ethics Policy / Code of Conduct

The City of Winston-Salem has establish guidelines for ethical standards of conduct for City representatives and to provide guidance in determining what conduct is appropriate in particular cases. City representatives should maintain high standards of personal integrity, truthfulness, honesty, and fairness in carrying out public duties; avoid any improprieties in their roles as public servants including the appearance of impropriety; and never use their position or power for improper personal gain. In establishing an ethics policy, the City of Winston-Salem desires to protect the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of these policies as well as promote and strengthen the confidence of the public in their governing body. For a complete review of the City Policy click the following link.

<http://www.cityofws.org/Home/Departments/Purchasing/Articles/Bids>

Financial Capacity and Resources

In determining the lowest responsible, responsive bidder, the City reserves the right to conduct an evaluation of the bidder. Relevant information regarding judgments, liens will be examined. The City may also look at other facts including, but not limited to, years in business, past contracts with the City, experience in performing similar work/projects, timeliness in paying subcontractors and demonstration of the contractor’s ability to obtain sufficient levels of liability and property damage insurance. The Contractor understands that if the City determines that the Contractor’s financial capacity, strength and resources are inadequate for the project or contract upon which the Contractor has placed a bid, the City may consider and reject the Contractor/Contractor’s bid as the lowest responsible responsive bidder/ bid.

Iran Divestment Act

Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS 147-86.58, nor will contractor utilize on this agreement any subcontractor on such list.

Divestment from Companies That Boycott Israel

Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of companies engaged in a boycott of Israel in violation of NCGS 147-86.80 et. seq. and that it will not utilize on this agreement any subcontractor on said list.

Right To Audit

To confirm compliance with the terms of this Agreement, the City's MWBE program, local, state, and federal laws and regulations, the City may, at all reasonable times upon reasonable prior notice during usual business hours, inspect, audit and examine for a period up to five (5) years after completion of the service or project detailed in this Agreement, all accounts and books of Contractor and, where necessary, make copies of the Contractor's documents necessary to determine compliance. Such right may be exercised through any agent or employee of City or by independent certified public accountants designated by the City. The Contractor shall permit the aforementioned inspection, audit and examination, and where necessary, the City to make copies of documents verifying compliance as indicated herein.

Nondiscrimination Ordinance

As a condition of entering into this contract, the Contractor represents and warrants that it will fully comply with the City's Non-Discrimination Policy, as set forth in Chapter 2, Section 2-8 Entitled "Policy of Nondiscrimination" of the Winston-Salem City Code. As part of such compliance, the Contractor shall not discriminate on the basis of race, ethnicity, color, creed, religion, sex, sexual orientation, gender identity, gender expression, pregnancy, veteran status, disability, age, marital status, familial status, protected hairstyle, political affiliation or national origin in the screening of applicants, the hiring and treatment of its employees, the provision of the goods and/or services set forth herein, or the solicitation, selection, hiring, or treatment of its subcontractors, vendors or suppliers, (hereinafter collectively "subcontractors"), if any, in connection with this contract or the contract solicitation process if applicable, nor shall the Contractor retaliate against any person or entity for reporting instances of such discrimination. The Contractor shall enact employment policies consistent with this obligation to refrain from such discrimination and shall provide evidence of such to the City within 90 calendar days of the first receipt of City funds. The Contractor shall provide equal opportunity for subcontractors to participate in all of its subcontracting and supply opportunities, if any, under this contract, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Contractor understands and agrees that a violation of this clause shall be considered a material breach of this contract and may result in termination of this contract, disqualification of the Contractor from participating in future City contracts pursuant to Winston-Salem City Code Section 2-3 or other sanctions. Furthermore, as a condition of entering into this contract, the Contractor agrees to: (a) promptly provide to the City in a format specified by the City all information and documentation that may be requested by the City from time to time regarding the screening of applicants, the hiring and treatment of its employees particularly if City funds were used in connection with hiring and compensation process, and the solicitation, selection, treatment and payment of subcontractors, if any, in connection with this Agreement; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors that the Grantee has used under this contract, including the total dollar amount paid by the Contractor on each subcontract or supply contract. The Contractor further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination Policy, to provide any documents, relevant to such investigation, that are requested by the City. The Contractor agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by the Contractor to subcontractors and suppliers in connection with this contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time. Nothing in this contract shall negate or diminish the requirements of the City's MWBE program. Nothing in this contract shall infringe

upon any rights afforded to the Contractor by state or federal law.

BIDDER ATTESTS

The bidder agrees that in carrying out this contract, compliance will be maintained with all applicable federal, state, and local laws, specifically including, without limitations, the Occupational Safety and Health Act of 1970 and Section 1324A, the Immigration Reform and Control Act.

The undersigned further agrees, in connection with the performance of this contract, not to discriminate against any employee or applicant for employment because of race, religion, color, gender, age, handicap, political affiliation or national origin.

The bidder certifies that the bid is made in good faith and without collusion with any person bidding on this contract or with any officer or employee of the City of Winston-Salem.

The bidder agrees that expenses in preparing a bid are borne exclusively by the bidder.

All bids must be firm and not subject to increase, and the bidder agrees to hold bids open and fixed for a period of 90 days after the reverse auction ends to allow the City to make an award. No special inducements will be considered that are not a part of the original bidding document.

CONTRACT

Pursuant to the laws governing public contracts in North Carolina, the successful bidder's response to this Invitation For Bids and any addenda thereof, plus the City of Winston-Salem's Purchase Order for the proposed goods, shall constitute a binding contract between parties.

RECEIPT AND OPENING OF PROPOSALS

- Option #1- Unpriced Technical Proposals may be submitted electronically by **attaching a single PDF file of the required forms** to an email with subject line "Bid for High Mast Lights" to bids@cityofws.org.
- Option #2- Unpriced Technical Proposals submitted by hardcopy must be submitted in an opaque sealed envelope, plainly marked "**Bid Inside**" on the outside, addressed as below, and delivered by the deadline on page 1.
 - For mailed bids, the sealed envelope containing the Bid must be enclosed in an outer envelope addressed to:
City / County Purchasing
101 North Main Street
City Hall Room 324
Winston-Salem, North Carolina 27101
 - The envelope-containing proposal shall be marked with the Bid Name per page 1.
- Proposals received prior to the due date and time will be securely kept sealed and emailed bids will remain unread. Mailed proposals will be treated in every respect as though filed in person. It is the Bidders responsibility to ensure that the proposal is received by the required deadline. If mail or delivery by other means causes a proposal to arrive after the date and hour set for the receipt of proposals, those proposals will not be considered.

PROPOSAL FORM

Purpose: The City of Winston-Salem has the need to replace the high mast light fixtures at the locations given below. **This bid is for the purchase only of the needed fixtures and MUST be provided as a retrofit fixture.** The fixtures will be installed by the City's street and security lighting contractor under a separate contract.

HIGH MAST LIGHTING SCOPE OF

Bids must include the fixture quantities below for the lighting upgrades. All fixtures that are proposed should be LED fixtures meeting specifications noted that are able to be swapped out with existing fixtures easily as a "retrofit". Details and quantities for each location are below.

Salem Parkway & US 52 interchange

6 high mast poles

- (qty 6) Fixture 1a 100 ft. light: **2 poles w/ 3 fixtures each**, ~63000 lum, ~750w, 480v, 5000k
- (qty 16) Fixture 1b 80 ft. light: **4 poles w/ 4 fixtures each**, ~63000 lum, ~400w, 480v, 5000k

US 52 North & MLK, Jr. Drive interchange

5 high mast poles

- (qty 3) Fixture 2a 100 ft. light: **1 poles w/ 3 fixtures each**, ~63000 lum, ~750w, 480v, 5000k
- (qty 12) Fixture 2b 80 ft. light: **3 poles w/ 4 fixtures each**, ~63000 lum, ~400w, 480v, 5000k
- (qty 2) Fixture 2c 60 ft. light: **1 poles w/ 2 fixtures each**, ~63000 lum, ~400w, 480v, 5000k

Salem Parkway & MLK Jr. Drive interchange

3 high mast poles

- (qty 6) Fixture 3 60 ft. light: **3 poles w/ 2 fixtures each**, ~63000 lum, ~400w, 480v, 5000k

25th Street & US 52

3 high mast poles

- (qty 6) Fixture 4 80 ft light: **3 poles w/ 2 fixtures each**, ~63000 lum, ~400w, 480v, 5000k

Fixture Replacement on US 52

81 pole lights (cobra head style)

- (qty 43) Fixture 6a **on single arm poles**, ~19800 lum, ~124w, 480v, roadway Type III, 5000k
- (qty 38) Fixture 6b **on double arm poles**, ~19800 lum, ~124w, 480v, roadway Type III, 5000k

On a separate Sheet in your chosen format, Unpriced Technical Proposals must include the fixture quantities and full specifications for the lighting noted above. ****Attach cut sheets to UNPRICED technical proposal**** **You may submit more than one fixture for each application, but only one fixture will be accepted.**

DELIVERY TIME after receipt of purchase order? ____ **calendar days (bidder to fill in)**

Delivery shall be made FOB Destination to: WSDOT Sign Shop, 651 Paul Howell Drive, Building 42, Winston-Salem NC 27101.

CITY OF WINSTON-SALEM
GENERAL CONDITIONS AND INSTRUCTIONS
(as applicable to this purchase)

1. The specified item(s) shall be delivered F.O.B. to Winston-Salem, North Carolina, according to the address stated on the Purchase Order unless otherwise stated.
2. The Purchase Order Number, Item Number, and Inquiry Number shall be affixed to the outside of each packing crate or carton and items not in packing material.
3. The City reserves the right to reject any and all shipments if the supplier fails to meet all terms and conditions of the contract award.
4. **Not Used**
5. The supplier is responsible for all errors, omissions, and deviations from the contract requirements in shop drawings when such drawings are submitted by the supplier and approved by the City.
6. The successful bidder must provide one electronic copy (preferred) or two (2) printed sets of operating instructions, recommended maintenance schedules, parts lists, and descriptive literature for the City, if applicable.
7. **Not Used**
8. On notification by the customer, the supplier must remove all equipment and reconstruct or refurnish any defects or work rejected by the City. The expense of removing, reconstruction, replacing, or refurnishing unfit, unsound, or damaged work or material shall be the responsibility of the supplier.
9. Payment will be made within thirty (30) days after acceptance by the City. If partial payments are provided for, final payment will be made after acceptance by the City.
10. **Not Used**
11. All equipment will be guaranteed against defects in materials and workmanship for a period of not less than one year from the date the equipment is put into service, and accepted by the City. Copies of all guarantees and warranties are to be submitted with the final invoice. The warranty term for product defects shall equal the manufacturers standard warranty period.
12. The City reserves the right to reject any or all bids, and to waive informalities.
13. In accordance with State Law, the award will be made to the lowest responsive, responsible bidder taking into consideration quality, performance and time specified in the proposal for the performance of the contract.
14. Taxes:

Federal: The City is exempt from Federal Excise Taxes. The City, will issue Federal Excise Exemption Certificates or Internal Revenue Tax Exemption Number only upon request of the contractor. Issuance of the certificate does not mean that the contract is entitled to a tax refund. All requests for refunds are to be handled by the contractor. The City, will not guarantee any Federal Tax refunds to the contractor.

State: Applicable North Carolina Sales and Use Taxes are NOT to be shown on bids, but are to be added to invoices as a separate item.
15. All supplies, materials, and equipment must be new and in first class condition. Bids offered on inferior or "second-line" equipment will not be accepted.
16. **Not Used**

17. **Not Used**
18. All bids must be firm and not subject to increase.
19. **Not Used**
20. **Not Used**
21. The City reserves the right to hold bids open for a period of ninety (90) days after the reverse auction ends before making awards.
22. No special inducements will be considered that are not a part of the original bidding document.
23. **BID DEPOSIT REQUIREMENTS:** A bid bond is not required for this bid.
24. **PERFORMANCE BOND REQUIREMENTS:** A performance bond is not required for this bid.
25. The City in each case refers to the City of Winston-Salem and/or the City/County Utility Commission, an Agency of the City of Winston-Salem.
26. It is the policy of the City of Winston-Salem that a City employee, officer or agent of the City may not participate in any manner in any contracts or subcontracts, for materials, goods, personal services or construction in which contract or subcontract he, or any member of his immediate family, business partner or any organization in which they serve as an officer, director, trustee or employee, has a financial interest.
27. **Equal Employment Opportunity / ADA:** The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, political affiliation, gender, age or disability. The contractor shall comply with all applicable laws and regulations regarding the American with Disabilities Act(www.ADA.gov) as amended from time to time and all rules and regulations promulgated thereunder and other laws and regulations pertaining to equal employment. The Contractor hereby agrees to indemnify the Owner from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of the contractor, its subcontractors, agents, successors, assigns, officers or employees to comply with the provisions of the ADA or rules and regulations promulgated thereunder. The Contractor agrees to act affirmatively in its employment and promotion practices, and in the general treatment of its employees.



February 7, 2024

Winston-Salem, NC will be conducting an Electronic Sealed Bidding Event for High Mast Light Fixtures. Winston-Salem, NC has partnered with eBridge to host this bidding event on its Online Bidding Platform.

We request that you review the accompanying documentation for information pertaining to the specifications, the response requirements, milestones and deadlines, as well as, information on eBridge and the Electronic Bidding Process.

We thank you for your participation.

Sincerely,

Darren Redfield
Winston-Salem, NC

CONTACT INFORMATION

If you have any questions **regarding the specifications** or the Buyer's requirements for returning your response, please contact:

Darren Redfield
Winston-Salem, NC
PO Box 2511
Winston-Salem, NC 27102
darrenmr@cityofws.org
(336) 747-6936

If you have any questions **regarding the electronic bid process**, please contact:

eBridge Business Solutions, LLC
Brittney Brizendine
10200 Forest Green Blvd., Suite LL1
Louisville, KY 40223
brittney.brizendine@ebridgeprocurement.com
(877) 245-8880



ELECTRONIC BID EVENT FORM

Must be completed via DocuSign or emailed to brittney.brizendine@ebridgeprocurement.com

Suppliers approved to participate in the Online Event will be provided with a DocuSign version of this form.

Winston-Salem, NC will accept bids for High Mast Light Fixtures using an Electronic Sealed Bidding Process on Friday, March 15, 2024 at 11:00AM ET in accordance with the specifications and procedures available either with eBridge or Winston-Salem, NC. This Electronic Sealed Bidding Event has a preliminary end date and time of Friday, March 15, 2024 at 11:15AM ET plus any possible extensions.

The awarded supplier is obligated to pay a transaction fee to eBridge pursuant to the Terms & Conditions accepted upon placement of initial bid. The fee will be based on the final total purchase price assessed as three percent (3.0%) of the awarded price. The transaction fee is assessed on the final selling price.

AWARD OF CONTRACT: REJECTION OF BIDS – The Buyer reserves the right to (i) reject any, any part of, or all bids or proposals to fulfill The Buyer's requirements, (ii) waive informalities and technicalities, (iii) negotiate directly with any party submitting a bid or proposal, or (iv) accept that bid or proposal which The Buyer deems to be in its best interest, whether or not it is the lowest dollar proposal. The Supplier to whom the award is made will be notified at the earliest possible date.

ACCEPTED BY:

COMPANY NAME

DATE

CONTACT PERSON

TITLE

PHONE NUMBER

FAX

BILLING ADDRESS

CITY

ST

ZIP

EMAIL ADDRESS

AUTHORIZED REPRESENTATIVE SIGNATURE



IMPORTANT

The following document is included for your review and examination.

Electronic acceptance prior to placing your bid will be required.

EBRIDGE BUSINESS SOLUTIONS, LLC SUPPLIER TERMS AND CONDITIONS

READ THIS AGREEMENT ("AGREEMENT") CAREFULLY BEFORE SELECTING "ACCEPT" OR "DECLINE" BELOW. BY SELECTING THE "ACCEPT" BUTTON, YOU WILL BE PERMITTED TO UTILIZE THE EBRIDGE BUSINESS SOLUTIONS, LLC ("EBRIDGE") INTERNET-BASED STRATEGIC SOURCING SOLUTION ("THE SOLUTION") FOR THE PURPOSE OF PARTICIPATING IN THIS ONE-TIME, ONLINE BIDDING EVENT. YOU WILL BE ALLOWED TO RECEIVE REQUESTS FOR INFORMATION AND QUOTATIONS AND TO SUBMIT BIDS AND PROPOSALS NECESSARY IN PARTICIPATING IN THE ONLINE BIDDING EVENT. BY SELECTING THE "DECLINE" BUTTON BELOW, YOU WILL BE DENIED ACCESS TO THE SOLUTION.

EBRIDGE BUSINESS SOLUTIONS, LLC ("eBridge") does not verify or validate any information provided or representations made by users of the Solution, and makes no warranty of any kind to you concerning any buyer offerings using the Solution. You acknowledge eBridge, its employees, agents, officers and members make no warranty of any kind, either express or implied, regarding the quality, accuracy or validity of any data and information available on the Solution, or residing or passing through its network, other than information and data that is provided directly to you from eBridge.

You further acknowledge any agreement entered into by you as the supplier of goods or services from a participating buyer is an agreement solely with such buyer, and eBridge is in no way a party to or responsible for the performance of such agreement. Therefore:

1) EBRIDGE DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO ANY TRANSACTION ENTERED INTO BETWEEN A PARTICIPATING PERSON OR ENTITY AND A SUPPLIER, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; AND 2) EBRIDGE FURTHER DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, CONCERNING INFORMATION SUPPLIED, OR REPRESENTATIONS MADE, BY ANY BUYER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION RELATING TO PRODUCT SUITABILITY, SPECIFICATIONS, OR REQUESTED AVAILABILITY, OR THE TRUTHFULNESS OR ACCURACY OF ANY OTHER INFORMATION OR REPRESENTATION MADE OR SUPPLIED BY A BUYER OR ANY OTHER SUPPLIER INVOLVED IN THIS AGREEMENT.

BY SELECTING THE "ACCEPT" BUTTON BELOW, AND BY SUBSEQUENTLY USING THE SOLUTION, YOU AGREE TO COMPLY WITH ALL TERMS AND CONDITIONS SET FORTH BELOW AND WITH ALL INSTRUCTIONS FOR USE POSTED ON THE SOLUTION.

1. Utilization. You are granted a one-time, non-transferable, non-exclusive right to access the Solution through eBridge's website through the use of a password(s) and/or access code(s). Any subsequent rights to access the Solution will require you to accept a new Agreement eBridge reserves the right to terminate your access to the Solution or any or all of its services at any time, if eBridge shall determine, in its sole discretion, you have violated any term(s) of this Agreement with respect to your access to and use of the Solution. In the event of such termination eBridge will notify you immediately.



2. Responsibilities of the Parties. Subject to the terms and conditions of this Agreement, eBridge will make available to you electronic access and use of the Solution, for you to participate in a one-time, online bidding event. eBridge will also provide such other assistance in the way of customer support and service as set forth in this Agreement. It is solely your responsibility when using the Solution to comply with all applicable local, state and federal statutes, ordinances, regulations, and policies governing the sales of goods or services by your company. eBridge shall have no responsibility for ensuring sales of goods or services using this system will comply with such laws, ordinances, regulations, or policies. You, the supplier, in using the Solution, have the responsibility for the bid including, but not limited to, the following:

- Accepting the terms of use contained in the bid documents in advance
- Preparing and assuring the completeness of any bids, quotes, or proposals
- Submitting any bids, quotes or proposals electronically within established deadlines
- Maintaining with the buyer, the security and integrity of the sealed or open bid procurement process
- Participating in any pre-bid conference(s) and tutorial(s) for suppliers prior to an electronic event
- Compliance with all applicable legal requirements
- Establishing and adhering to the terms and conditions of buyer contracts
- Assuring proper authorization to enter into a contract and the proper administration of any resulting contract

You also acknowledge that eBridge's role for procurement activities will include the following:

- Clarifying buyer needs and specifications to the supplier
- Assisting in the completion of comprehensive bid documents
- Hosting telephone tutorials with all suppliers on utilization of the electronic bid process
- Participating in any pre-bid conference(s)
- Hosting the auction event and providing support during the event
- Publishing appropriate results to the users as well as obtaining feedback from participants

3. Conduit Services Only. The Solution provides an Internet conduit through which you may communicate the availability of your goods and services to potential buyers, potential buyers may communicate their procurement needs to you and you may respond to requests for quotations, bids or proposals in online bidding events. You will be entitled only to respond to requests of potential buyers for quotations, bids or proposals if you have accepted the terms and conditions of this Agreement. eBridge makes no representation or warranty of any kind concerning the reputation, reliability or any other matter concerning participating buyers. You must conduct your own inquiries concerning the qualifications and reputation of buyers, and must look only to the buyers with whom you choose to transact business for performance of any agreements with them.

4. Buyer Representations and Warranties. eBridge does not verify or validate the information provided by or any representations or warranties made by buyers on the Solution, and makes no representation or warranty of any kind to you concerning any buyer using the Solution. You shall look solely to the buyer with respect to any buyer-related information or representations and warranties and shall indemnify and hold eBridge harmless from and against any contract, damages or liability that may result from any buyer-related information or representations and warranties.

5. Coded Access. The Solution is available only to persons and entities who have read and agreed to the terms of this Agreement and who have been assigned access code(s) and/or password(s). You agree not to divulge your access codes or passwords to any other person or entity. If you allow either your access code or password to fall into the hands of an unauthorized person, eBridge has no way of detecting unauthorized use of such codes or passwords and is not responsible for such unauthorized use of the Solution. YOU MUST SAFEGUARD THE PASSWORDS AND ACCESS CODES. Unauthorized users of the Solution may be subject to both civil and criminal prosecution under state and federal law.

6. Availability and Operation of the Solution. While every effort will be made to keep the Solution operating during all scheduled hours of operation, no guarantee of uninterrupted operation can be given. You agree the services provided on the Solution are



provided as is and neither you nor your business or agency will have any claim against eBridge as a result of any non-availability of the Solution at a particular time(s) or any failure of the Solution to operate as intended.

7. **Sole Remedy.** If you are dissatisfied with the functionality of the Solution or the services eBridge provides, your sole remedy is to cease using the Solution and/or services. YOU AGREE YOU HAVE, AND WILL HAVE, NO CLAIM OR RIGHT OF ACTION OF ANY KIND AGAINST eBridge RELATED TO YOUR USE OF THE SOLUTION. Without limitation of the foregoing, you waive any right you may have to claim or recover any special, incidental, exemplary, punitive, consequential or other damages (including but not limited to lost profits and business interruption).
8. **Virus.** eBridge shall not be liable for any harm that may be caused by the inadvertent transmission of any computer virus, worm, time bomb, logic bomb, or such other computer program transmitted through the Solution.
9. **Information You Provide.** You agree and warrant that any information you provide about yourself or your organization or your agents when registering to use the Solution or subsequent to registration, is accurate, current and complete and you will maintain and update that information to ensure that it remains true, accurate and complete. If eBridge suffers any claim or incurs any liability as a result of information entered into the Solution by users of your account, you and your agency or business will indemnify eBridge against such claim or liability including costs and attorney fees incurred in defending against it.
10. **Security.** eBridge uses industry-standard security measures to safeguard any information you may provide to us on our website. You, your organization and/or your agents are responsible for managing your internal security by safeguarding password(s) and establishing your own internal security procedures, as you would for paper-based procurements, to assure the proper use of the Solution. In the event of any compromise in the security of the Solution, you shall immediately report the same to eBridge and a new password will be assigned for your use. However, perfect security does not exist on the Internet, and eBridge does not and cannot guarantee that information will remain secure.
11. **Fees.** The design, maintenance and operation of the Solution require substantial costs and investment incurred by eBridge. Thus, a transaction fee based on the total final purchase price stated upon award will be charged to the awarded supplier. Said fee will be assessed to the awarded supplier at the rate stated in the Electronic Bid Event Form. All fees are to be paid to eBridge by the awarded supplier in the following manner:
 - **Definitive Bids:** Payment is made once delivery is made to the buyer and awarded supplier is paid by the buyer
 - **Construction and Public Works Bids:** Payment is to be made in full to eBridge upon supplier's receipt of initial progress, first percentage completion or mobilization payment
 - **IDIQ (indefinite dates, indefinite quantity) Bids:** Payment will be made on monthly transactions based upon actual purchases made during the month. This agreement is binding on all renewable and/or evergreen/roll-over contracts until and unless such time buyer re-bids same in a manner consistent with acceptable procurement procedures

Suppliers will ensure this transaction fee is included in every bid they submit before or during an auction. You further acknowledge any payment made by a buyer with respect to a sale in which you were the winning bidder, whether or not such payment is made directly to you or a third party, will cause you to be immediately liable to eBridge for the transaction fee. Because these fees are expected to be INCLUDED in your pricing, they shall not be delineated in your invoicing to the buyer.

Any and all subsequent orders resulting from this specific electronic bid for like equipment, services or materials are subject to these terms and conditions.

12. **Disclosures.** You acknowledge by using the Solution, you agree to provide to eBridge accurate and complete information regarding: (a) any agreement entered into by you with a participating buyer through any online bidding event conducted through the Solution, (b) the final price agreed upon between you and the participating buyer with respect to any product or service sold to such buyer, and (c) the date payment (whether a payment in full or a partial or installment payment) is delivered



to you by any buyer pursuant to any agreement entered into by you with a participating buyer through any online bidding event conducted on the Solution or through the Solution. You are to provide this information to eBridge immediately upon becoming aware of such information. eBridge relies upon your delivery of such information for the calculation and payment of its fees as set forth in Section 11.

- 13. Privacy Policy.** eBridge shall have the right to monitor the Solution electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other government request, to operate its service properly, or to protect itself or its users. eBridge reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in eBridge's sole discretion, are unacceptable or in violation of this Agreement.

The information eBridge receives is determined by your activities when using the Solution. If you use the Solution to read or download information, eBridge collects and stores the following information about you: the name of the domain and host through which you access the Internet and the date and time you access the Solution. eBridge uses this information to measure the number of visitors to different sections of the Solution, so that eBridge can make the Solution more useful to visitors. If you actively participate in using or providing any of the services offered through the Solution, we collect and store the personally identifiable information needed to facilitate this participation (typically your name, agency or company name, mailing address, email address and telephone).

If you wish to use a link to another website or to do business with another user of the Solution, you may be asked by the other user to provide certain confidential information. eBridge shall not be responsible for any loss or damage of any kind, nature or amount incurred as a result of any such disclosure to another user through the Solution. You may choose to send personally-identifying information to other websites you have linked to through the Solution. eBridge does not control the collection or use of this information, and makes no representations or warranties about the privacy or other policies of any other websites.

- 14. Reselling or Transfer.** You agree not to sell, transfer, or assign your right to use the Solution to anyone, and you will not allow your access code or password to be used by any other agency or unauthorized person. If the Solution is used by another person using your access code or password, you will be responsible for and shall indemnify and hold eBridge harmless from and against any contract, damages or liability that may result from the use of your access code or password.
- 15. Access to Internet.** You agree that in order to use the Solution you must: (a) provide and pay for your own access to the Internet, and (b) provide and pay for all equipment necessary for you to make the connection to the Internet.
- 16. Interference with Others.** You agree not to use the Solution in a manner that would restrict or inhibit any other party's use of such services.
- 17. Links to Other Websites.** The Solution may link you to other sites on the Internet. These links are provided for your convenience but the websites to which the links connect are not under eBridge's supervision or control. You acknowledge and agree that the linking of the Solution to other websites does not constitute any endorsement of such websites by eBridge, and eBridge shall not be responsible for the legality, accuracy or any other aspect of the operation or content of any websites to which links are provided.
- 18. Copyright - How You May Use the Content of the Solution.** The content of the Solution (the "Content") is protected by intellectual property laws of both the United States and foreign jurisdictions. You may download, use, and copy the materials found on the Solution for your internal business use only, provided that all copies of the Content must bear any copyright, trademark, or other proprietary notice located on the Solution which pertains to the material being copied. The Content may not be republished or reprinted in whole or in part. Except as authorized in this paragraph, you are not granted a license under any copyright, trademark, patent, or other intellectual property right in the material or the services, processes, or technology described therein. All such rights are retained by eBridge and/or any third party owner of such rights. You may not sell or modify the Content or reproduce, display, publicly perform, distribute, or otherwise use the Content in any way for any public or commercial purpose. The use of the Content on any other website or in a networked computer environment for any purpose is prohibited. None of the Content, including any software, may be reverse engineered, disassembled, decompiled, reproduced,



transcribed, stored in a retrieval system, translated into any language or computer language, retransmitted in any form or by any means, resold, or redistributed without the prior written consent of eBridge, except as described herein. Nothing in this paragraph prohibits you from printing, using or reproducing any records or reports of transactions using the Solution.

- 19. Framed Links.** You may not create framed links to the Solution without the prior written consent of eBridge.
- 20. Modification.** eBridge, in its sole discretion, has the right to modify this Agreement at any time. However, any such modification shall not affect the terms of any online bidding events already completed or in process. Any modification is effective upon either posting notice of such modification on eBridge's website or upon notice by mail. Your continued use of the Solution following notice of any modification to this Agreement shall be conclusively deemed an acceptance of all such modifications.
- 21. Non-Circumvention.** You agree you will not, directly or indirectly, take any action which circumvents or attempts to circumvent the intent or purpose of this Agreement. Further, you agree that once you electronically viewed or received a specific request for quotations from a buyer, you will not, directly or indirectly, enter into any agreement related to your quotations for this specific event with such buyer outside the Solution to include paper bids or verbal negotiation which would result in your failure to pay to eBridge the fee(s) set out in Section 11 hereof. You agree to maintain confidentiality between the buyer, you, your representatives, your company and its agents and suppliers and eBridge regarding the submission of quotations and subsequent pricing before and during the auction event.
- 22. Governing Law.** This Agreement and the rights of the parties to this Agreement shall be governed by and interpreted in accordance with the laws of the state in which the Buyer resides, without regard to or application of its conflict of laws principles.
- 23. Partial Enforceability.** If any provision of this Agreement, or the application of any provision to any person, entity or circumstance shall be held invalid, illegal or unenforceable, then the remainder of this Agreement, or the application of that provision to persons, entities or circumstances other than those with respect to which it is held invalid, illegal or unenforceable, shall not be affected thereby.
- 24. Entire Agreement.** This Agreement represents the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous written or oral agreements, negotiations, correspondence, undertakings and communications between such parties representing such subject matter.
- 25. No Consequential Damages.** Except as prohibited by law, each party hereto waives any right it may have to claim or recover any special, exemplary, punitive or consequential (including business interruption), or any damages other than, or in addition to, actual damages.
- 26. Headings.** The headings in this Agreement have been included solely for ease of reference and shall not be considered in the interpretation or construction of this Agreement.