

# City of Fullerton



## ***Request for Bids***

**# 4395**

### ***MTU 4R0113 DS125 125KW STATIONARY GENERATOR FOR FIRE STATION# 1***

Thursday, July 6, 2023

**Pre-bid Conference Date:**

Not applicable

**Bid Due Date:**

Wednesday, July 19, 3:00 PM (PST)

**Submit Bid Electronically through  
PublicPurchase or Email:**

<http://www.publicpurchase.com>

[karen.chung@cityoffullerton.com](mailto:karen.chung@cityoffullerton.com)

Karen Chung  
Buyer / Purchasing

## **Section I: Project Description, Contact Information and Submittal Requirements**

### **I-A. PROJECT DESCRIPTION**

The City of Fullerton invites bids from qualified vendors to provide **(1) MTU 4R0113 DS125 Generator** as set forth in the RFB. The bids shall be subject to all terms and conditions outlined in the Request For Bid document.

### **I-B. CONTACT INFORMATION**

Questions or comments should be directed to:

Karen Chung, Buyer  
Purchasing  
303 W. Commonwealth Ave.  
Fullerton, CA 92832  
[karen.chung@cityoffullerton.com](mailto:karen.chung@cityoffullerton.com)

**Emailed inquiries are the preferred method of contact. See Section II-A for more information.**

### **I-C. TERMINOLOGY**

For the purposes of the RFB, the words “contractor”, “vendor”, “bidder” or “respondent” shall be understood to mean a company responding or potentially responding to this Request For Bids. The terms “RFB” or “bid” shall be understood to mean this Request For Bids. The terms “City”, “City staff” or “City of Fullerton”, “City representative” or “City contract manager” unless otherwise noted, shall be understood to mean the City of Fullerton Purchasing Manager or her designees.

### **I-D. OBTAINING BID PACKAGE**

To obtain a bid package, please follow one of the options below.

1. Visit the City’s website: [www.cityoffullerton.com](http://www.cityoffullerton.com) then navigate to:
  - a. Business
  - b. Bids and RFPs
  - c. Purchasing
  - d. Current Bids & RFPs <https://www.cityoffullerton.com/business/bids-rfps/-folder-215>
2. Visit Public Purchase website: <http://www.publicpurchase.com>
  - a. To download the Request for Bid (RFB), you must first register as a vendor. Registration is free for vendors.
  - b. Registration is NOT mandatory for this RFP.

### **I-E. BID INCLUSIONS & TIMELINE**

To be eligible for consideration, each bid response must include:

1. Full and complete responses to the items in Attachment A through D.  
Acknowledgement and acceptance of Sections IIA pertaining to questions.

2. The items listed below must be returned with your bid:
  - A. Specifications (Attachment A).
  - B. Bid Pricing Form & Certification (Attachment B)
  - C. Non-Collusion Affidavit (Attachment C)
  - D. Exception Form (Attachment D)
3. Bids must be organized in the order described in Item I-E.2 above. Bids submitted out of the required order or those containing extraneous information will be rejected.
4. Timeline
  - July 6, 2023 – RFB Release
  - July 11, 2023 – 3:00 PM PST Deadline for RFB Questions
  - July 13, 2023 – Post Responses to Questions
  - July 19, 2023 – 3:00 PM PST Bid Due Date

## **Section II: General Provisions**

### **II-A. QUESTIONS**

Questions regarding the RFB's requirements should be submitted to Karen Chung, Buyer, [karen.chung@cityoffullerton.com](mailto:karen.chung@cityoffullerton.com). Please submit questions via to speed the distribution of responses. Only questions submitted by email will be accepted. All questions must be submitted by **Tuesday, July 11, 2023 at 3:00 pm PST**. The City will share the questions and answers with all potential bidders by **Thursday, July 13, 2023**, in the form of an addendum which will be posted on the Public Purchase website and the City's website. It is the bidders' responsibility to check one of the websites before they submit their bid to be sure they have the most up to date information.

### **II-B. EXCEPTIONS TO REQUIREMENTS**

Any and all exceptions which are taken in response to this RFB must be explicitly stated in writing on the Exceptions Request form (Attachment D). The exception request must reference the specific section to which the exception is requested, the reason for the exception and the proposed alternative to the requirement in the specifications.

The taking of bid exceptions, whether clearly stated or not, may result in the bid's disqualification. Any exceptions taken will be considered and weighed based on relative importance by the City. Allowance of exceptions will be determined by the City, whose findings shall be final.

The absence of any exceptions will be taken to mean the bid is in complete conformance to the City's RFB. Any exceptions or deviations promulgated after the bid submittal date will be the bidder's responsibility; the City will not approve any additional costs nor approve delays for project completion.

### **II-C. PUBLIC RECORDS ACT**

The master copy of each bid shall be retained for official files and will become subject to the Public Records Act.

### **II-D. RECEIPT OF BIDS**

Electronic bids must be submitted on Public Purchase or emailed to the Bid Contact by Wednesday, July 19, 2023 at 3:00 PM PST. Late submissions will not be considered. There will not be a public opening for this RFB.

Electronic submittals through Public Purchase or email must be titled “**RFB# 4395 MTU 4R0113 DS125 Generator**”.

**II-E. COST:**

Bidders will use the RFB Bid Sheet (Attachment B) to show the total proposed cost. The cost shown on the form will include the entire cost needed by the bidder to meet the requirements of this RFB.

**II-F. BIDDER’S RESPONSIBILITY**

The City will attempt to provide all available relevant information. It is the responsibility of each bidder to review, evaluate and, where necessary, request clarification before submitting a bid. Questions should be submitted via email and be addressed to the staff contact noted in Section I-B. All responses from the City will be posted on the Public Purchase website and the City website.

**II-G. CITY’S RESPONSIBILITY**

The City will provide all potential bidders with the following:

- Contract administration contact information.
- Communicate changes, modifications, or updates to all potential bidders during the bid preparation and review period. Refer to section II-A for more details on questions and deadlines.

**II-H. BID EVALUATION**

Bids will be screened for compliance with the bid format described in Section I-E.2. The evaluation team will consider the following factors:

Rating Factor
Cost, including early payment discount as described in the Bid Pricing Form (Attachment B)
Completeness: vendor’s ability to meet the contract requirements based on its bid responses
Conformance to the RFB’s response requirements

## **II-I. AFFIRMATIVE ACTION**

The City of Fullerton hereby notifies all bidders that it will affirmatively insure that in any contract entered pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this request and will not be discriminated against on the grounds of sex, race, color or national origin in consideration for an award.

## **II-J. INSURANCE REQUIREMENTS**

Insurance is not required for this RFB.

## **II-K. RIGHTS OF CITY**

All costs incurred in the preparation of the bid, the submission of additional information, and/or any other aspect of a bid prior to contract award will be borne by the bidder.

The City reserves the right to accept or reject the combined or separate components of the bid in part or in its entirety or to waive any informality or technical defect in the bid. The City may, in its sole discretion, reject all bids without providing a reason.

## **II-L. DISQUALIFICATION OF BIDDER**

If there is reason to believe collusion exists among the bidders, the City may refuse to consider bids from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one bid for the same work unless alternate bids are called for. A person, firm, or corporation who has submitted a sub-bid to a Bidder, or who has quoted prices on materials to a Bidder, is not disqualified from submitting a sub-Bid or quoting process to other Bidder.

All bidders will execute the Non-Collusion Affidavit, Attachment D, and return it with their bids. Bids submitted without a properly executed affidavit will be considered non-responsive.

## **II-M. CONTRACT PAYMENT**

1. All submitted invoices shall be paid within 30 days upon approval by the City's representative. Any early payment discounts will be taken.
2. Any additional charges in the invoice that are not approved by the City's representative shall not be paid by the City unless an advance written notice and approval has been obtained from the City representative.

## ATTACHMENT A

### SPECIFICATIONS

1. **SUBSTITUTIONS** and **ALTERNATES** are **NOT acceptable** unless City has stated otherwise in the Specifications.
2. Do **NOT** include additional optional equipment or packages unless it is required by the manufacturer's standards to conform to our specifications.

1.	<b>MINIMUM SPECIFICATIONS</b>	<b>THE FOLLOWING SPECIFICATIONS ARE MINIMUM:</b>
2.		Note that City will defer to the manufacturer's up-to-date specifications in the event of conflict with these SPECIFICATIONS unless City states "NO EXCEPTIONS".
3.		IF BIDDER DESIRES ANY VARIATIONS TO THESE SPECIFICATIONS, SEND A WRITTEN REQUEST BY THE QUESTIONS DEADLINE, as outlined on page 4 of this RFB.
4.		Bidder acknowledges receipt and understanding of all bid specifications, terms and conditions, and submits their bid in accordance with them.
5.	<b>DELIVERY:</b>	Deliver and offload to FOB is 312 E. Commonwealth Ave. Fullerton, CA 92832.
6.		The City reserves the right to award the bid to the vendor that submits the best overall bid based upon price, terms, delivery time, and warranty. The City will award the bid for the vehicle that, in the City's opinion, best serves the interest of the City of Fullerton. These specifications are intended to obtain the best vehicle suitable for the service demands of the department requesting the vehicle. Vendor "after sale" service shall be a consideration.
7.		Any delays in delivery date as required herein shall be immediately reported in writing to the requesting department representative with a copy to the buyer.
8.		City may cancel the purchase order for late deliveries.
9.		Provide invoice and all necessary vehicle registration documentation upon delivery.
10.	<b>LEGAL REQUIREMENTS:</b>	Must meet all applicable legal (Federal and California) requirements.
11.	<b>EXEMPTIONS:</b>	Federal Excise Tax and DMV Fees.
12.	<b>ADDITIONAL UNITS:</b>	City may purchase additional units for up to one year at same price based on model availability.
13.	<b>WARRANTY:</b>	Manufacturer's standard warranty.
14.	<b>DESCRIPTION:</b>	125 KW STATIONARY GENERATOR
15.	<b>MAKE:</b>	MTU 4R0113 DS125

16.	<b>MODEL: MTU4R0113 DS125KW/125KVA</b>	MTU 4R0113 DS125KW/125KVA,240/120V1 PHASE,IBC,DIESEL GENSET with PMG alternator OUTDOOR AUTOMATIC TRANSFER SWITCH,OPEN TRANSITION,600A,3P,NEMA 1 START-UP-WITH 2 HOUR BUILDING LOAD generator must be a level 3 sound enclosure sound level must not exceed 69.6dba at 7m/23feet 4 relay dry contact kit
17.		ENGINE MUST BE A JOHN DEER NO EXEPTIONS
18.		MUST BE 4.5L HORSEPOWER
19.		START-UP WITH 2 HOURS BUILDING LOAD
20.		PMG REQUIRED ( permanent magnet generator)
21.	<b>MATERIALS:</b>	50DEG COOLING SYSTEM
22.		400AMP / 600Volt 3 POLE 100% LSI Square
23.		STARTING BATTERY(GROUP31) CABELS & BATTERY RACK, MOUNTED ,QTY 1
24.		BATTERY CHARGER; NRG-22-10HCLS, MOUNTED
25.		-20 DEGF COOLANT PREHEATER (120V1PH 1000W), TPS101GT10-XXX, MOUNTED, QTY 1
26.		WEATHER PROOF ENCLOSLURE- STEEL, LEVEL 3, 195 MPH SOUND LEVEL NOT TO EXCEED 69.6DBA AT 7M/23 FEET
27.		EHAUST SCOOP-STEEL
28.		SOUND ATTENUATION KIT
29.		TIER 4 ENGINE
30.		UNIT-MOUNTED SILENCER 4"
31.		CALIFORNIA CODE TANK', 24HR 70GALLON SUB BASE FUEL TANK ( WITH Rear STUB UP)
32.		AIR FILTER (STANDARD)
33.		AIR RISTRATION INDICATOR
34.		GENERATOR MODEL NUMBER; 363/1607
35.		PM300 REGULATOR
36.		MGC-2020 CONTROL PANEL MOUNTED LH SIDE
37.		MODBUS RTU

38.		4 RELAY OPTION ( ENGINE RUN, ENGINE FAIL, MINOR ALARM) ISOCHRONOUS GOVERNOR
39.		2 YEAR 3000 HOUR STANBY WARRANTY
40.		PAINT COLOR;RAL 7001 GREY
41.		MANUAL ENGLISH, 1 FLASH DRIVE
42.		STANDARD COMMERCIAL TEST
43.		SHIP UNIT WITH FLUIDS INSTALLED
44.		12 WIRE LEAD ON ALTERNATOR
45.	<b>ADDERS:</b>	48 HOUR TANK CALIFORNIA CODE TANK IN LIEU OF A 24 HOUR TANK IN BASE BID
46.		REMOTE E-STOP BREAK GLASS STATION
47.		REMOTE ANNUNCIATOR PANEL
48.		5 YEAR 3000 HOUR COMPREHENSIVE WARRANTY ON GENSET
49.		5 YEAR EXTENDED WARRANTY ON ATS
50.		400A LOAD BANK BREAKER
51.		Roof mounted DPF, ships loose
52.	<b>MANUALS:</b>	1 SET OF REPAIRS AND WIREING MANUALS ON FLASH DRIVE
53.		All items not listed above but considered standard to this model shall be included.
54.	<b>REGISTRATION:</b>	Dealer shall process all AQMD licensing & permits for the City of Fullerton.
55.	<b>EMISSIONS RATING:</b>	GENERATOR must be certified TIER 4 as an ULEV or better by the Air Resources Board (CARB) and meet South Coast Air Quality Management
37.		
38.		
39.		
40.		<b>END OF SPECIFICATIONS FOR EXHIBIT A</b>



**ATTACHMENT B**  
**BID PRICING FORM**

Item #	Qty	Unit	Description	Unit Price	Extension
1.	1	EA	MTU 4R0113 DS125, 125KW STATIONARY GENERATOR PER SPECIFICATIONS (ATTACHMENT A)		
2.	1	LOT	OTHER MISCELLANEOUS FEES		
3.	1	LOT	OTHER MISCELLANEOUS FEES		
			<b>Brand Specific – NO Substitutions</b>		
			<b>DELIVERY TIME: _____working days ARO (After Receipt of Order)</b>		
			<b>TERMS _____ Net 30 or _____Discount of _____% if paid in _____Days</b>		
			<b>***F.O.B. Destination Fullerton***</b>	<b>Subtotal</b>	

				<b>7.75% Tax</b>	
				<b>Shipping</b>	
				<b>Total</b>	

**Please State  
Warranty**\_\_\_\_\_

## **CERTIFICATION**

The undersigned bidder agrees that if awarded the contract, the company he or she represents will provide all equipment and material and/or complete all work as described in this Request For Bid after receiving the Notice to Proceed from the City of Fullerton. The undersigned further attests the representations made in this document are true and accurate to the best of his or her knowledge, under penalty of perjury. The bidder also acknowledges and accepts the terms and conditions pertaining to questions as outlined in Section II-A.

<b>Company:</b>		<b>Name of Representative</b>	
<b>Address:</b>		<b>Authorized Signature</b>	
<b>City/State/ Zip:</b>		<b>Title:</b>	
<b>Date:</b>		<b>Phone:</b>	
<b>Company website:</b>		<b>Fax:</b>	
<b>Point of Contact (if different from Representative)</b>		<b>Representative's e-mail:</b>	

**The original signature and title of the person authorized to represent the bidder is require**

## ATTACHMENT C

### NON-COLLUSION AFFIDAVIT

Note: To be executed by Proposer and submitted with proposal.

State of \_\_\_\_\_  
(the State of the place of business)

County of \_\_\_\_\_  
(the County of the place of business)

\_\_\_\_\_, being first duly sworn, deposes and  
(name of the person signing this form)

says that he/she is \_\_\_\_\_ of  
(title of the person signing this form)

\_\_\_\_\_, the party making the foregoing bid  
(name of bidding company)

that such bid is not made in the interest of or on the behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that said bidder has not in any manner directly or indirectly sought by agreement, communication, or conference with anyone to fix the bid price of said bidder or of any other bidder or to fix any overhead profit, or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in such bid are true, and further, that said bidder has not directly or indirectly submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to any person or persons as have a partnership or other financial interest with said bidder in the general business.

By: \_\_\_\_\_  
(signature)  
Printed Name: \_\_\_\_\_  
(name of the person signing this form)  
Title: \_\_\_\_\_  
(title of the person signing this form)

## ATTACHMENT D

### EXCEPTIONS

1. If you provided additional information regarding your company, policies, practices, procedures, pricing or your proposed products' capabilities, performance, capacities or pricing, does any of this information serve to qualify your response or alter any portion of these specifications? Yes/No. If so, please list sections and page numbers:

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2. Does your bid comply with the conditions and specifications in this package? Yes/No

If you answered "No", explain each exception.

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**All exceptions or deviations must be listed here in accordance with specifications.** (Use the following page if necessary).

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT E**

**PO TERMS & CONDITIONS**

# TERMS AND CONDITIONS

1. THERE IS NO ACKNOWLEDGMENT COPY OF THIS PURCHASE ORDER. ANY DISCREPANCIES IN PRICE, QUANTITIES, ITEMS OR DELIVERY, MUST BE PH ONED TO BUYER'S PURCHASING DEPARTMENT WITHIN 48 HOURS OF SELLER'S RECEIPT OF THIS PURCHASE ORDER. ANY CORRESPONDENCE REFERRING TO THE TERMS, PRICES AND CONDITIONS OF THIS ORDER MUST BE DIRECTED TO BUYER'S PURCHASING AGENT. INQUIRIES RELATIVE TO PAYMENT OF INVOICES SHOULD BE DIRECTED TO BUYER'S ACCOUNTS PAYABLE.
2. **COMPLIANCE WITH LAW:** SELLER SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE, COUNTY, AND LOCAL LAWS, ORDINANCES, RULES, REGULATIONS AND ORDERS (COLLECTIVELY, "LAWS") PERTAINING TO THE SUBJECT MATTER HEREOF; AND SHALL OBTAIN ALL NECESSARY LICENSES AND PERMITS RELATED TO THE ITEMS, WORK, OR SERVICES AT SELLER'S SOLE EXPENSE.
3. **GOVERNING LAWS:** THIS PURCHASE ORDER SHALL BE DEEMED TO BE MADE IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA AND SHALL IN ALL RESPECTS TO BE CONSTRUED AND GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA. IN THE EVENT OF ANY LEGAL ACTION TO ENFORCE OR INTERPRET THIS CONTRACT, THE SOLE AND EXCLUSIVE VENUE SHALL BE A COURT OF COMPETENT JURISDICTION LOCATED IN ORANGE COUNTY, CALIFORNIA, AND THE PARTIES HERETO AGREE TO AND DO HERBY SUBMIT TO THE JURISDICTION OF SUCH COURT, NOTWITHSTANDING COD OF CIVIL PROCEDURE SECTION 394. FURTHERMORE, THE PARTIES SPECIFICALLY AGREE TO WAIVE ANY AND ALL RIGHTS TO REQUEST THAT AN ACTION TO BE TRANSFERRED FOR ADJUDICATION TO ANOTHER COUNTY.
4. **NON-BINDING COUNTEROFFER:** IN THE EVENT OF SELLER DOES NOT ACCEPT THE TERMS OF THIS ORDER, AND SUBMITS A COUNTEROFFER TO BUYER IN WRITING, SELLER ACKNOWLEDGES AND AGREES THAT A BINDING CONTRACT DOES NOT EXIST BETWEEN THE PARTIES ON THE COUNTER-OFFERED TERMS PROFFERED BY SELLER UNLESS AND UNTIL BUYER ACCEPTS SUCH COUNTEROFFER IN WRITING. ANY PERFORMANCE BY SELLER PRIOR TO RECEIPT OF BUYER'S WRITTEN ACCEPTANCE OF THESE TERMS OF A COUNTEROFFER SHALL BE UNDER THE TERMS OF THIS ORDER.
5. **BUYER FURNISHED OR PAID FOR ITEMS:** ALL ARTWORK, SPECIFICATIONS, TOOLS, EQUIPMENT AND OTHER ITEMS FURNISHED TO SELLER, OR PAID FOR BY BUYER FOR THIS PURCHASE ORDER SHALL (A) REMAIN BUYER'S PROPERTY, OR UPON ACQUISITION BY SELLER, SHALL BECOME BUYER'S PROPERTY; (B) BE SAFELY KEPT BY SELLER IN GOOD AND USABLE ORDER; (C) BE PROMPTLY RETURNED TO BUYER UPON REQUEST; AND (D) BE DISPOSED IF REQUESTED BY BUYER'S INSTRUCTION.
6. **PROPRIETARY INFORMATION:** ALL DOCUMENTS, MATERIALS, INFORMATION AND DATA PROVIDED BY CITY TO SELLER PURSUANT TO THIS ORDER ("PROPRIETARY INFORMATION") SHALL BE CONSIDERED PROPRIETARY AND REMAIN THE PROPERTY OF THE CITY. SELLER IS LICENSED TO USE PROPRIETARY INFORMATION ONLY FOR THE PURPOSE OF FULFILLING ITS OBLIGATIONS UNDER THIS ORDER AND MAY NOT RELEASE THIS INFORMATION TO ANY PARTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE CITY. SELLER SHALL NOT USE CITY'S NAME, SYMBOL, TRADEMARK OR SERVICE MARK WITHOUT PRIOR WRITTEN CONSENT OF CITY.
7. **INDEPENDENT CONTRACTOR.** SELLER IS PERFORMING AS AN INDEPENDENT CONTRACTOR AND, THUS, SHALL HOLD BUYER, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, AND VOLUNTEERS HARMLESS FROM LIABILITY OF ANY NATURE OR KIND, ON ACCOUNT OF USED INVENTION, ARTICLES, PROCESS, FOR WORK OR LABOR PERFORMED UNDER THIS PURCHASE ORDER. SELLER ALSO GUARANTEES AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS BUYER AGAINST ANY OR ALL LOSS, LIABILITY, DAMAGES, DEMANDS, CLAIMS OR COSTS ARISING OUT OF DEFECTIVE MATERIAL AND PRODUCTS, FAULTY WORK PERFORMANCE, NEGLIGENT OR UNLAWFUL ACTS, AND NON-COMPLIANCE WITH ANY APPLICABLE LOCAL, STATE OR FEDERAL CODES, ORDINANCES, ORDERS, REGULATIONS OR STATUTES INCLUDING BUT NOT LIMITED TO THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) AND THE CALIFORNIA INDUSTRIAL SAFETY ACT. THIS GUARANTEE IS IN ADDITION TO AND NOT INTENDED AS A LIMITATION ON ANY OTHER WARRANTY, EXPRESS OR IMPLIED. IN ADDITION, SELLER AND BUYER AGREE TO THE TERMS CONTAINED IN THE DOCUMENT ENTITLED "INDEMNIFICATION CLAUSE" SEPARATELY ACKNOWLEDGED BY SELLER AND INCORPORATED HEREIN BY THIS REFERENCE. IN THE EVENT OF ANY CONFLICT BETWEEN THE INDEMNIFICATION CLAUSE AND THESE TERMS AND CONDITIONS, THE INDEMNIFICATION CLAUSE SHALL GOVERN. THIS PARAGRAPH SHALL APPLY TO ALL PURCHASE ORDERS BETWEEN BUYER AND SELLER.
8. **FREIGHT:** EXCESSIVE CHARGES FROM INCORRECT DESCRIPTION OR FROM ROUTING OTHER THAN GIVEN WILL BE CHARGED TO SELLER'S ACCOUNT. PACKING LIST MUST ACCOMPANY EACH CASE OR PARCEL, SHOWING BUYER'S ORDER NUMBER. NO CHARGES FOR TRANSPORTATION, CONTAINERS, OR ANY OTHER PURPOSE, ETC., WILL BE ALLOWED UNLESS SO SPECIFIED IN THIS ORDER. FREIGHT CHARGES ALLOWABLE PURSUANT TO THE TERMS FOB POINT OF ORIGIN OR FOB DESTINATION PLUS FREIGHT SHALL BE PREPAID BY THE SELLER AND MUST BE ITEMIZED ON THE INVOICE, AND A COPY OF THE PAID EXPRESS OR FREIGHT BILL SHALL BE ATTACHED TO THE INVOICE. COD SHIPMENTS WILL NOT BE ACCEPTED.
9. **REJECTIONS:** IF ANY OF THE GOODS ARE FOUND AT ANY TIME TO BE DEFECTIVE IN MATERIAL OR WORKMANSHIP, OR OTHERWISE NOT IN CONFORMITY WITH THE REQUIREMENTS OF THE ORDER, BUYER, IN ADDITION TO ANY OTHER RIGHTS WHICH IT MAY HAVE UNDER WARRANTIES OR OTHERWISE, SHALL HAVE THE RIGHT TO REJECT AND RETURN SUCH GOODS AT SELLER'S EXPENSE, SUCH GOODS NOT TO BE REPLACED WITHOUT WRITTEN AUTHORIZATION FROM BUYER. THIS ORDER MUST BE FILLED EXACTLY AS SPECIFIED, NO EXCEPTIONS. ALTERNATES OR SUBSTITUTES WILL NOT BE ACCEPTED UNLESS AUTHORIZED BY BUYER'S PURCHASING AGENT. WHERE QUALITY IS QUESTIONED ON ANY DELIVERY, ANY COST OF INSPECTION WILL BE AGAINST THE ACCOUNT OF THE SELLER.
10. **RESPONSIBILITY FOR SUPPLIES:** SELLER SHALL BEAR THE RISK OF LOSS OR DAMAGE TO THE ARTICLES COVERED BY THIS ORDER UNTIL DELIVERY OF SAID SUPPLIES AT THE LOCATION DESIGNATED BY BUYER OR AT SUCH OTHER PLACE AS MAY BE DESIGNATED HEREIN, REGARDLESS OF FOB POINT OR THE POINT OF INSPECTION. SELLER SHALL ALSO BEAR THE RISK OF LOSS OR DAMAGE TO SUPPLIES AFTER BUYER GIVES SELLER NOTICE OF REJECTION.
11. **CHANGES:** BUYER MAY BY WRITTEN ORDER OR AT ANY TIME PRIOR TO FINAL DELIVERY AND WITHOUT NOTICE TO SURETIES, MAKE CHANGES WITHIN THE GENERAL SCOPE OF THIS ORDER, IN ANY OF THE FOLLOWING: APPLICABLE DRAWINGS, DESIGNS, OR SPECIFICATIONS, METHOD OF SHIPMENT OR PACKING AND PLACE OR TIME OF DELIVERY, TO THE EXTENT SUCH CHANGE CAUSES AN INCREASE OR DECREASE IN THE COST OF OR TIME REQUIRED FOR THE PERFORMANCE OF THIS ORDER AN APPROPRIATE EQUITABLE ADJUSTMENT IN THIS ORDER SHALL BE MADE, ANY CLAIM BY SELLER FOR ADJUSTMENT MUST BE ASSERTED WITHIN FIFTEEN (15) DAYS OF RECEIPT OF THE CHANGE. FAILURE TO AGREE TO AN ADJUSTMENT SHALL NOT EXCUSE THE SELLER FROM PROCEEDING WITH THIS ORDER AS CHANGED.
12. **CANCELLATION:** TIME IS OF ESSENCE IN THE PERFORMANCE AND/OR DELIVERY OF SERVICES AND/OR ITEMS PROCURED BY THIS PURCHASE ORDER. BUYER SHALL HAVE THE RIGHT TO CANCEL AT ANY TIME FOR SELLER'S BREACH OF ANY PROVISIONS OF THIS ORDER, INCLUDING FAILURE TO MEET THEIR STATED DELIVERY SCHEDULE. ALL OR ANY PORTION OF THIS ORDER MAY BE CANCELLED BY BUYER IF SELLER, IN BUYER'S JUDGMENT, IS FAILING TO MAKE SUFFICIENT PROGRESS SO AS TO ENDANGER PERFORMANCE OF THIS ORDER IN ACCORDANCE WITH ITS TERMS. BUYER RESERVES THE RIGHT TO TERMINATE THE CONTRACT WITHOUT PENALTY, WITHOUT CAUSE OR WITH CAUSE IMMEDIATELY, 10 DAYS AFTER WRITTEN NOTICE THEREOF IF DELIVERED TO SELLER EITHER PERSONALLY OR BY MAIL ADDRESSED AS SHOWN ON THE PURCHASE ORDER FORM.
13. **RESPONSIBILITY FOR REPLACEMENT COSTS.** IF SELLER BREACHES THIS AGREEMENT AND FAILS TO DELIVER THE GOODS, SERVICES OR MATERIALS PROVIDED HEREIN WITHIN THE TIME ABOVE SET FORTH, OR BY FAILING TO MAKE SUFFICIENT PROGRESS SO AS TO ENDANGER PERFORMANCE OF THIS ORDER, THEN BUYER MAY TERMINATE THIS CONTRACT AND PURCHASE THE GOODS, SERVICES OR MATERIALS FROM WHATEVER SOURCE AND SELLER SHALL BE LIABLE TO BUYER FOR THE DIFFERENCE IN PRICE WHICH BUYER IS OBLIGATED TO PAY PLUS ALL OF ITS COSTS AND EXPENSES IN ENFORCING ITS RIGHTS HEREUNDER, INCLUDING REASONABLE ATTORNEY'S FEES. FURTHER, BUYER MAY OFFSET ANY SUCH COSTS OR EXPENSES INCURRED AGAINST ANY OF THE MONIES WHICH MAY BE OWING TO SELLER.
14. **ANTI-DISCRIMINATION CLAIM:** IT IS THE POLICY OF BUYER THAT IN CONNECTION WITH ALL WORK PERFORMED UNDER PUBLIC WORKS AND PURCHASING CONTRACTS, THERE BE NO DISCRIMINATION AGAINST ANY PROSPECTIVE OR ACTIVE EMPLOYEE ENGAGED IN THE WORK BECAUSE OF RACE, COLOR, SEX, ANCESTRY, NATIONAL ORIGIN, OR RELIGIOUS CREED, AND THEREFORE, SELLER AGREES TO COMPLY WITH APPLICABLE FEDERAL AND CALIFORNIA LAWS INCLUDING, BUT NOT LIMITED TO, THE CALIFORNIA FAIR EMPLOYMENT PRACTICE ACT BEGINNING WITH LABOR CODE SECTION 1410, AND LABOR CODE SECTION 1735. IN ADDITION, SELLER AGREES TO REQUIRE LIKE COMPLIANCE BY ALL SUB-CONTRACTORS EMPLOYED.
15. **ARBITRATION.** ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS PURCHASE ORDER OR THE BREACH THEREOF, SHALL BE SETTLED BY ARBITRATION AT ELECTION OF EITHER PARTY IN ACCORDANCE WITH THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.
16. **PURCHASE ORDER NUMBER REQUIRED.** BUYER'S PURCHASE ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES AND CORRESPONDENCE.
17. **DELIVERY REQUIREMENTS.** DELIVERIES FOR ALL DEPARTMENTS MUST BE MADE AS DIRECTED. NON-PAYMENT MAY RESULT FOR MERCHANDISE DELIVERED IN ANY OTHER MANNER. CASH TERMS SHALL BE PREDICATED ON THE DELIVERY DATE OF THE MATERIAL AS SPECIFIED, OR FROM DATE CORRECT INVOICES ARE RECEIVED IN BUYER'S ACCOUNTS PAYABLE OFFICE, IF THE LATTER DATE IS LATER THAN THE DATE OF DELIVERY.
18. **PROVISION OF MANUALS.** SELLER AGREES TO FURNISH BUYER WITH TWO SHOP MAINTENANCE AND TWO OPERATION MANUALS (WHICH WILL INCLUDE WIRING SCHEMATICS, PART DIAGRAMS, ALIGNMENT DATA, AND PARTS LIST) ON ALL PURCHASES OF EQUIPMENT.
19. **WARRANTY:** UNLESS OTHERWISE SPECIFIED ON REVERSE SIDE OF THIS PURCHASE ORDER, WARRANTY ON QUOTED EQUIPMENT SHALL BE ONE YEAR

20. **REPLACEMENT PARTS.** SELLER AGREES TO MAKE AVAILABLE SPECIAL REPLACEMENT PARTS REQUIRED TO MAINTAIN THE PURCHASED EQUIPMENT UNLESS OTHERWISE STIPULATED AT TIME OF EQUIPMENT ORDER.
21. **ASSIGNMENT:** NO ASSIGNMENT BY SELLER OF THE PURCHASE ORDER OR ANY PART HEREOF, OR OF FUNDS TO BE RECEIVED HEREUNDER, WILL BE RECOGNIZED BY BUYER UNLESS SUCH ASSIGNMENT HAS HAD PRIOR WRITTEN APPROVAL AND CONSENT OF BUYER.
22. **INSURANCE.** PRIOR TO PERFORMING ANY SERVICES UNDER THIS PURCHASE ORDER, SELLER SHALL SUBMIT TO THE CITY PROOF OF INSURANCE TO THE CONDITIONS IDENTIFIED UNDER THE PURCHASE ORDER ADDENDUM PROVIDE UNDER SEPARATE COVER AND INCORPORATED INTO THE PURCHASE ORDER BY THIS REFERENCE. SELLER SHALL MAINTAIN INSURANCE ACCEPTABLE TO BUYER IN FULL FORCE AND EFFECT AT SELLER'S EXPENSE THROUGHOUT SELLER'S PERFORMANCE UNDER THIS PURCHASE ORDER.
23. **PREVAILING WAGE.** ALL PUBLIC WORKS PROJECTS THAT ARE SUBJECT TO PREVAILING WAGE REQUIREMENTS SHALL ALSO BE SUBJECT TO COMPLIANCE MONITORING AND ENFORCEMENT BY THE DEPARTMENT OF INDUSTRIAL RELATIONS (DIR). NO CONTRACTOR OR SUB-CONTRACTOR MAY BE LISTED ON A BID PROPOSAL FOR A PUBLIC WORKS PROJECT UNLESS REGISTERED WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS PURSUANT TO SECTION 1725.5. NO CONTRACTOR OR SUB-CONTRACTOR MAY BE AWARDED A CONTRACT FOR PUBLIC WORK ON A PUBLIC WORKS PROJECT UNLESS REGISTERED WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS PURSUANT TO SECTION 1725.5. CONTRACTORS ARE PROHIBITED FROM WORKING ON ANY PUBLIC WORKS CONTRACT WITH A SUBCONTRACTOR WHO IS INELIGIBLE TO PERFORM WORK PURSUANT TO SECTION 1777.1 OR 1777.7 OF THE LABOR CODE. ALL CONTRACTORS AND SUBCONTRACTORS MUST ALSO COMPLY WITH SECTIONS 1777.5, 1777.6 AND 1777.7 OF THE CALIFORNIA LABOR CODE CONCERNING THE EMPLOYMENT OF APPRENTICES. THE CONTRACTOR SHALL ALSO COMPLY WITH SECTIONS 1771, 1774, 1775, 1776, 1777.5, 1810, 1813, AND 1815 AS REQUIRED BY THE CALIFORNIA LABOR CODE.
24. **FORCE MAJEURE:** EACH PARTY HERETO SHALL BE EXCUSED FROM PERFORMANCE HEREUNDER RESULTING FROM DELAYS CAUSED BY AN ACT OF GOD, WAR, CIVIL DISTURBANCE, COURT ORDER, GOVERNMENTAL ACTION, LAWS, ORDERS, REGULATIONS, DIRECTIONS OR REQUESTS, OR AS A RESULT OF EVENTS SUCH AS PUBLIC ENEMIES, FIRES, EARTHQUAKES, FLOODS, PANDEMIC, STRIKES OR OTHER LABOR DISTURBANCES OF THE OTHER PARTY OR ANY THIRD PARTY, OR OTHER CAUSE BEYOND ITS REASONABLE CONTROL (FINANCIAL INABILITY EXCEPTED) AND WHICH IT COULD NOT HAVE PREVENTED BY REASONABLE PRECAUTIONS, AND, SUCH NON-PERFORMANCE SHALL NOT BE A DEFAULT HEREUNDER OR A GROUND FOR TERMINATION THEREOF. IN THE EVENT THAT SELLER IS EXCUSED FROM PERFORMANCE UNDER THIS PARAGRAPH, SELLER SHALL TAKE ALL REASONABLE ACTIONS TO RESUME OR PROVIDE ALTERNATIVE PERFORMANCE OF ITS OBLIGATIONS AT NO ADDITIONAL CHARGE TO THE CITY. IF ANY SUCH DELAY EXCEEDS THIRTY (30) DAYS, THEN CITY MAY TERMINATE THIS PURCHASE ORDER.