Request for an ordinance authorizing acceptance of the bids from the following companies for Sand Products (Bank Sand & Cement Stabilized Sand); Smart Materials, Inc., 1404 Wallisville Rd., Liberty, TX 77575 (Items #1 & #2) and Megasand Enterprises Inc., PO Box 656, Highlands, TX 77562 (Items #3 & #4) according to specifications.

This is an annual contract for a period of one (1) year, with an option of two (2), one (1) year extensions in 2014 & 2015.

RECOMMENDATIONS & JUSTIFICATION:
Invitations to Bid were mailed and posted electronically for an annual contract for Sand Products (Bank Sand & Cement Stabilized Sand). Two (2) bids were received.

This contract will primarily be utilized by the Public Works Divisions and is available for use by all City departments for various jobs.

Staff is requesting Councils approval for an annual contract with Smart Materials (Items #1 & #2) and with Megasand Enterprises Inc. (Items #3 & #4).

Estimated Annual Expense: $7,300
An Ordinance authorizing and approving contracts between the City of Pasadena, Texas and Smart Materials, Inc. (Items #1 and #2) and Megasand Enterprises Inc. (Items #3 and #4) for the purchase by the City of Pasadena of sand products (bank sand and cement stabilized sand) for a period of one year.

WHEREAS, Smart Materials, Inc. (Items #1 and #2) and Megasand Enterprises Inc. (Items #3 and #4) submitted the lowest responsible bids received July 23, 2013; NOW, THEREFORE,
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PASADENA:

SECTION 1. That those certain contracts, facsimiles of which are annexed hereto, incorporated herein for all purposes and designated Exhibits "A" and "B", by and between the City of Pasadena, Texas and Smart Materials, Inc. (Items #1 and #2) and Megasand Enterprises Inc. (Items #3 and #4) for the purchase by the City of Pasadena of sand products (bank sand and cement stabilized sand) for a period of one year beginning on or about the date of final City Council approval, with an option of two, one (1) year extensions in 2014 and 2015, according to specifications as set forth in Notice to Bidders and bids/proposals of Smart Materials, Inc. and Megasand Enterprises Inc. received pursuant thereto on July 23, 2013, are hereby authorized and approved.

SECTION 2. That the City Council finds that such contracts are reasonable and necessary and the Mayor of the City of Pasadena, Texas is hereby authorized and directed to execute and the City Secretary to attest for and on behalf of the City the annexed contract documents and counterparts thereof.
SECTION 3. That the City Council officially determines that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further confirms such written notice and the contents and posting thereof.

(SIGNATURE AND APPROVAL - NEXT PAGE)
PASSED ON FIRST READING by the City Council of the City of Pasadena, Texas in regular meeting in the City Hall this the 13th day of August, A. D., 2013.
APPROVED this the 13th day of August, A. D., 2013.

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:
LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS

PASSED ON SECOND AND FINAL READING by the City Council of the City of Pasadena, Texas in regular meeting in the City Hall this the 20th day of August, A. D., 2013.
APPROVED this the 20th day of August, A. D., 2013.

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:
LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS
ORDINANCE NO. 2013-16

CONTRACT

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

This Agreement is made and entered into this 13th day of August, A. D., 2013, by and between the City of Pasadena, Texas, a municipal corporation situated in Harris County, Texas (the "City"), and Smart Materials, Inc. of Texas (the "Contractor"). In consideration of the covenants and agreements hereinafter contained the parties do hereby agree as follows:

I.

It is agreed that the following documents, to-wit: Notice to Bidders, Proposal to the City of Pasadena, Texas, Payment Bond, Performance Bond, if any, General Conditions of Bidding, and General Specifications for the purchase by the City of Pasadena, Texas of sand products (bank sand and cement stabilized sand) (Items #1 and #2) for a period of one (1) year beginning on or about the date of final City Council approval, with an option of two, one (1) year extensions in 2014 and 2015, according to specifications as set forth in Notice to Bidders, and bid received pursuant thereto on July 23, 2013, as well as any and all addenda, are a part of this contract as if set out in full at this part of the contract. Each of the parties hereto agrees to

EXHIBIT "A"

KPurchAnnSplit.Sand13
carry out and perform each and all of the provisions of said documents upon its part to be performed.

II. Contractor agrees to supply and deliver sand products (bank sand and cement stabilized sand) (Items #1 and #2) to the City according to the specifications and formal proposal attached hereto.

III. City agrees to pay to Contractor the amount according to the terms as set out in the aforesaid documents and specifications.

IV. The continuance of this contract is subject to and dependent upon appropriation of the necessary funds by the City Council and City reserves the continuing right to terminate at the end of each fiscal year.

V. If Contractor fails to perform any term of this contract, including specifications and bid, City may terminate this contract upon fifteen (15) days written notice to Contractor, or City may terminate this contract at any time without cause upon thirty (30) days written notice to Contractor.
In Witness Whereof, the City has caused this contract to be signed in its behalf by the Mayor, and Contractor has executed this contract the day and year first above written.

THE CITY OF PASADENA, TEXAS

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS

THE STATE OF TEXAS
$THE COUNTY OF HARRIS
$

This instrument was acknowledged before me on the 30 day of Aug., 2013 by JOHNNY ISBELL as MAYOR of the City of Pasadena, Texas.

CONNIE JO SMITH
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
Name: CONNIE JO SMITH

ATTEST: SMART MATERIALS, INC.

Mark Jourci 
SECRETARY

Arnold Smart
PRESIDENT

THE STATE OF TEXAS
COUNTY OF LIBERTY

This instrument was acknowledged before me on the 26th day of August, 2013 by Arnold Smart, the President of SMART MATERIALS, INC., a corporation, on behalf of said corporation.

Kathy M. Cannon
NOTARY PUBLIC AND FOR
THE STATE OF TEXAS
Name: Kathy M. Cannon

My Commission expires: 02-21-2016
## Invitation for Bids (IFB)

<table>
<thead>
<tr>
<th>Mailing Date:</th>
<th>July 7, 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td>SAND PRODUCTS (Bank Sand &amp; Cement Stabilized Sand)</td>
</tr>
<tr>
<td>Number:</td>
<td>13-012</td>
</tr>
<tr>
<td>Closing Date &amp; Time:</td>
<td>July 22, 2013 @ 4:00 PM CST</td>
</tr>
</tbody>
</table>

### Pre-Bid Date, Time and Location
n/a

<table>
<thead>
<tr>
<th>Name of Partnership, Corporation or Individual:</th>
<th>Smart Materials Inc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxpayer Identification Number:</td>
<td>74-2021265</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>1404 Wallisville Rd</td>
</tr>
<tr>
<td>City-State-Zip:</td>
<td>Liberty, TX 77575</td>
</tr>
<tr>
<td>Ph:</td>
<td>713-338-5060</td>
</tr>
<tr>
<td>Fx:</td>
<td>436-336-3025</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:Mark@smartmaterialsinc.net">Mark@smartmaterialsinc.net</a></td>
</tr>
<tr>
<td>Web Address:</td>
<td></td>
</tr>
<tr>
<td>Total Bid Amount:</td>
<td>7,218.50</td>
</tr>
</tbody>
</table>

**Bid Writer:** Richard Bennett, CPPB

**BID WRITER**

**PRE-BID DATE, TIME AND LOCATION**

**NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL:**

Smart Materials Inc

**TAXPAYER IDENTIFICATION NUMBER:**

74-2021265

**MAILING ADDRESS:**

1404 Wallisville Rd

**CITY-STATE-ZIP:**

Liberty, TX 77575

**PH:**

713-338-5060

**FX:**

436-336-3025

**EMAIL:**

Mark@smartmaterialsinc.net

**WEB ADDRESS:**

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the City of Pasadena the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the City of Pasadena all rights, titles and interest in and to all causes to action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of TX for price fixing relating to the particular commodities or services purchased or acquired by the City of Pasadena. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the bidder.

**AUTHORIZED SIGNATURE**

Mark Jones

**DATE:** 7/08/13

**PRINTED NAME/TITLE:** Mark Jones Sec/Treas

**Addendum #1**

**Addendum #2**

**Addendum #3**

**Addendum #4**

Please note the following:

- This page must be completed and returned with your bid
- Bids must be submitted in a sealed envelope, marked with bid number & closing date.
- Bids received after the above closing date and time will not be accepted.
NOTICE TO BIDDERS
BID NO. 13-012

The City of Pasadena, Texas intends to purchase and invites you to submit a sealed bid for:

SAND PRODUCTS (BANK & CEMENT STABILIZED SAND)

Sealed bids in duplicate will be received by the City of Pasadena, Texas on or before 4:00 PM on Monday, July 22, 2013 in the Office of the City Secretary, 1211 Southmore Ave., Room 115, Pasadena, Texas 77502. Bids will be publicly opened and read on July 23, 2013 at the 10:00 AM City Council meeting.

Invitation for Bids documents may be obtained via the Internet by contacting DemandStar.com or from the City of Pasadena Purchasing Department website at www.ci.pasadena.tx.us. If you do not have Internet access, you may obtain the documents by calling DemandStar by Onvia at (800) 711-1712 and request document number # 13-012 or contact the Purchasing Office at 1211 Southmore, Pasadena, Texas, 77502, (713) 475-5532.

IFBs may be either mailed or hand delivered to the City Secretary's Office, 1211 Southmore, Room 115, Pasadena, TX 77502. Any IFB’s received after the above stated time will be returned to the bidder unopened.

The City Council reserves the right to waive any informalities or minor irregularities; reject any and all bids/proposals which are incomplete, conditional, obscure, or which contain additions not allowed for; accept or reject any bids/proposal in whole or in part with or without cause; and accept the bid/proposal which best serves the City.

CAUTION: It is the bidder's/proposer's responsibility to ensure that bids/proposals are received in the City Secretary’s Office prior to the date and time specified above. Receipt of a bid/proposal in any other City office does not satisfy this requirement.

Published in the Pasadena Citizen & City Website

Published: July 7, 2013 & July 14, 2013
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>STANDARD PURCHASE DEFINITIONS (IFB)</td>
<td>1</td>
</tr>
<tr>
<td>GENERAL REQUIREMENTS FOR BIDS</td>
<td>2</td>
</tr>
<tr>
<td>SPECIAL CONDITIONS</td>
<td>10</td>
</tr>
<tr>
<td>SPECIFICATIONS</td>
<td>12</td>
</tr>
<tr>
<td>BIDDER QUESTIONNAIRE &amp; CHECKLIST</td>
<td>14</td>
</tr>
<tr>
<td>BID PRICING SHEET</td>
<td>15</td>
</tr>
<tr>
<td>DEVIATION &amp; COMPLIANCE SIGNATURE FORM</td>
<td>18</td>
</tr>
<tr>
<td>NON-COLLUSION AFFIDAVIT</td>
<td>19</td>
</tr>
<tr>
<td>SOLICITATION QUESTIONNAIRE</td>
<td>20</td>
</tr>
<tr>
<td>BIDDER RÉFÉRENCES</td>
<td>21</td>
</tr>
<tr>
<td>LOCAL BIDDER PREFERENCE CLAIM FORM</td>
<td>22</td>
</tr>
<tr>
<td>FOR DISADVANTAGED BUSINESS ENTERPRISES ONLY</td>
<td>24</td>
</tr>
<tr>
<td>BID/PROPOSAL LABEL</td>
<td>25</td>
</tr>
</tbody>
</table>
STANDARD PURCHASE DEFINITIONS (IFB)

The City will use the following definitions in instructions to bidders, terms and conditions, special provisions, technical specifications and any other solicitation documents.

Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

1. Addendum means a written instrument issued by the Contractor Awarding Authority that modifies or clarifies the Solicitation prior to the Due Date. "Addenda" is the plural form of the word.

2. Alternate Bid means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.

3. Appropriated, Appropriated, or Appropriation means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.

4. Bid is a complete, properly signed response to an invitation for bid, which, if accepted, would bind the Bidder to perform the resultant Contract.

5. Bidder is a person, firm, or entity that submits a Bid in response to a Solicitation. Any Bidder may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.

6. Bid Guaranty guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.

7. Bids are responses to an invitation for Bids.

8. City means the City of Pasadena, a Texas home-rule municipal corporation.

9. Construction means the construction, repair, rehabilitation, alteration, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.

10. Contractor means the person, firm or entity selling goods or services to the City under a Contract.

11. Deliverables means the goods, products, materials, and/or services to be provided to the City by a Bidder.

12. Due Date means the date and time specified for receipt of Bids.

13. Goods are supplies, materials, or equipment.

14. Invitation for Bid (IFB) means a Solicitation requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.

15. Lowest Responsible Bid means the Bid meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past-performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.

16. Lowest Responsible Bidder means the Bidder submitting Lowest Responsible Bid.

17. Non-Professional Services are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.

18. Offer means a complete signed response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation for Bid, a proposal submitted in response to a Request for Proposal, a quote submitted in response to a Request for Quotation, or a statement of qualifications and interest submitted in response to a Request for Qualifications.

19. Pre-Bid Conference means a conference conducted by the Purchasing Office, held in order to allow Bidders to ask questions about the proposed Contract and particularly the Contract specifications.

20. Professional Services means services that use skills that are predominantly mental or intellectual, rather than physical or manual such as accounting, architecture, land surveying, law, medicine, optometry, professional engineering, etc.

21. Purchase Order is an order placed by the Purchasing Office for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.

22. Services include all work or labor performed for the City on an independent contractor basis other than construction.

23. Solicitation means, as applicable, an Invitation for Bid, Request for Proposal, Request for Qualifications or a Request for Quotation.

24. Subcontractor means a person, firm or entity providing goods or services to a Bidder to be used in the performance of the Bidder's obligations under the Contract.

25. Unbalanced Bid means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.
CITY OF PASADENA
PURCHASING OFFICE

BID PRICING SHEET

For the purpose of evaluation, any item left "blank" will be deemed "no bid".

THIS IS A UNIT PRICE CONTRACT

BIDDER NAME Smart Materials Inc.

Bidder agrees to supply the products or services at the prices bid below in accordance with the terms, conditions, and specifications contained in this IFB.

**Unit Pricing must be rounded to the nearest hundredths (0.00)**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Est. Qty</th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BANK SAND - Delivered to various locations within the City, as needed</td>
<td>50</td>
<td>Cubic Yard</td>
<td>$10.25</td>
<td>$512.50</td>
</tr>
<tr>
<td>2</td>
<td>BANK SAND - Picked-Up in City Trucks, as needed</td>
<td>360</td>
<td>Cubic Yard</td>
<td>$3.50</td>
<td>$1260.00</td>
</tr>
<tr>
<td>3</td>
<td>CEMENT STABILIZED SAND - (3 Sack Mix) Delivered to various locations within the City, as needed</td>
<td>50</td>
<td>Tons</td>
<td>$33.98</td>
<td>$1699.00</td>
</tr>
<tr>
<td>4</td>
<td>CEMENT STABILIZED SAND - (3 Sack Mix) Picked-Up in City Trucks, as needed</td>
<td>150</td>
<td>Tons</td>
<td>$24.98</td>
<td>$3747.00</td>
</tr>
</tbody>
</table>

**TOTAL FOR ALL LINE ITEMS** $7219.50

Transfer Total to Front

Delivery Time and the Additional Fees & Charges shall be a determining factor in selecting the best value for the City.

Items 3 & 4 - State the amount of cement in your Cement Stabilized Sand.

3 Sacks of cement per ton of dry sand.

Additional Fees & Charges

Cost of each additional sack above 3 sack mix? (if any) $8.00 Per Sack

Minimum load, before a load fee is imposed? (if any) 12 Yards/Tons

Fee per yard/ton, below the minimum load? (if any) $8.00 Per Yard/Ton

Additional Charge for weekend and after 5:00 p.m. deliveries $N/A Per Yard/Ton

DELIVERY
The specified delivery time shall be a firm time. The delivery time after receipt of order (ARO) shall be one of the determining factors in selecting the bid that is the best value for the City.

3 calendar days after receipt of order. Minimum dollar amount per order $N/A

(Must be filled in)
Contact information for checking status of orders and delivery:

Contact Name: Mark Jones
Title: Owner
Telephone: 936-334-5868
Fax: 936-336-3025

Below, please list the physical location of your nearest location for the following items.

Bank Sand Pick-Up Location:
15811 Fm 2354
Beach City, TX 77523
Physical location (street address, city, state, zip) of the nearest plant to the City of Pasadena.

Cement Stabilized Sand Pick-Up Location:
15811 Fm 2354
Beach City, TX 77523
Physical location (street address, city, state, zip) of the nearest plant to the City of Pasadena.

METHOD OF PAYMENT:

1. PAYMENT TERMS: Net 30 (Vendor paid within 30 days of invoice or receipt of goods accepted in good order.)

2. PROMPT PAYMENT DISCOUNT: _____% within 10 days (e.g. 1%, 2%, 5%)

AND/OR (check one)

3. PROCUREMENT CARD PROGRAM  yes  no
(This payment method would allow for vendor payments to be made within 24 hours of use by City through
City's Procurement Card Program provider, Chase-MasterCard)

--If "yes" discount offered: _____% (e.g. 1%, 2%, 5%)

The undersigned hereby certifies that he understands all the above specifications, has read them carefully, and will
deliver and furnish all merchandise and services as specified above in this bid.

Bidder shall return two (2) copies of this bid proposal filled out in full and signed. One (1) copy marked "ORIGINAL" and
one (1) copy marked "COPY".

Accounts Payables Information:

Contact Name: Judy Jones
Title: Secretary
Mailing Address: 1404 Wallisville Rd
City: Liberty
State: TX
Zip: 77525
Telephone: 713-228-5060
Fax: 936-336-3025
The undersigned hereby certifies that he/she understands all the above specifications, has read them carefully, and will deliver and furnish all merchandise and services as specified above in this bid.

Bidder shall return two (2) copies of this bid proposal filled out in full and signed. **One (1) copy marked “ORIGINAL” and one (1) copy marked “COPY”**.

Signature: Mark Jones
Title: Sec/Treas
Company Name: Smart Materials Inc.
Date: 7/22/2013

---

**FULL LEGAL FIRM/COMPANY NAME: Smart Materials Inc.**
**BUSINESS STREET ADDRESS: 1404 Wallisville Rd**
**BUSINESS MAILING ADDRESS: Same**
**BUSINESS TELEPHONE NUMBER: 936-336-3026**
**BUSINESS FAX NUMBER: 936-336-3025**
**COUNTY: Liberty**
**MINORITY OWNED: Yes □ No □ # OF EMPLOYEES: 40**

---

**YEAR ESTABLISHED: 1979**
**NUMBER OF YEARS IN BUSINESS: 34 yrs**
**FEDERAL ID NO.: 74-2021265**
**NATURE OF BUSINESS: General Contractor**

**PRINCIPALS:**
**NAME:** Arnold Smart
**TITLE:** President

**NAME:** Mark Jones
**TITLE:** Sec/Treas

**NAME:**
CITY OF PASADENA
PURCHASING OFFICE

NON-COLLUSION AFFIDAVIT

State of Texas (State)
County of Liberty (County)

Being first duly sworn, deposes and says that:

1. He/She is the Owner (Owner, Partner, Officer, Representative or Agent) of Smart Materials Inc. (Company), the party that has submitted the attached Proposal;

2. He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

3. Such Proposal is genuine and is not a collusive or sham Proposal;

4. Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Proposer, firm, or person to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;

5. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Mark Jones
Authorized Representative’s Signature
Mark Jones
Representative’s Name
Smart Materials
Company Name
See Treas.
Representative’s Title

On this the 22 day of July, 2013, before me, the undersigned Notary Public of the State of Texas, personally appeared the individual whose name is subscribed to within the instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal.

NOTARY PUBLIC

SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp, or Type as Commissioned)
CITY OF PASADENA
PURCHASING OFFICE

SOLICITATION QUESTIONNAIRE

The City of Pasadena Purchasing Department constantly strives to improve competitive bidding with historically underutilized businesses (HUB). In order to facilitate these improvements, we would like to know how you were informed that this Invitation for Bid was active and how you may have received a copy of the document.

How did you learn of this bid opportunity?

☐ Direct Contact with Purchasing.
☒ City of Pasadena Website www.ci.pasadena.tx.us
☐ Bid notification service (i.e. DemandStar)
☐ Newspaper or trade publication
☐ City Information Cable Channel 16
☐ Another Vendor or Supplier
☐ Chamber of Commerce
☐ North Pasadena Business Association
☐ Port Area Networking
☐ Other Means: Describe _____________________________

How did you obtain your copy of the Bid Document?

☐ Direct Contact with Purchasing
☐ Via Email    ☐ Via Fax    ☐ In Person
☒ City of Pasadena Website www.ci.pasadena.tx.us
☐ Bid notification service (i.e. DemandStar)
☒ Other Means: Describe
   VIA MAIL
CITY OF PASADENA
PURCHASING OFFICE

BIDDER REFERENCES

Please list three (3) references, preferably a Government (local, county, state) or Educational Agency we may contact:

<table>
<thead>
<tr>
<th>1. COMPANY NAME:</th>
<th>City of Baytown</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS:</td>
<td>P.O. Box 424</td>
</tr>
<tr>
<td>CITY / STATE / ZIP:</td>
<td>Baytown TX 77522</td>
</tr>
<tr>
<td>PHONE NO.:</td>
<td>281-420-1526</td>
</tr>
<tr>
<td>NAME OF CONTACT:</td>
<td>Carla Hommel</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. COMPANY NAME:</th>
<th>City of Dayton</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS:</td>
<td>111 N Church Street</td>
</tr>
<tr>
<td>CITY / STATE / ZIP:</td>
<td>Dayton TX 77535</td>
</tr>
<tr>
<td>PHONE NO.:</td>
<td>936-258-2642</td>
</tr>
<tr>
<td>NAME OF CONTACT:</td>
<td>John (936-402-4947)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. COMPANY NAME:</th>
<th>City of Liberty</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS:</td>
<td>1829 Sam Houston</td>
</tr>
<tr>
<td>CITY / STATE / ZIP:</td>
<td>Liberty TX 77575</td>
</tr>
<tr>
<td>PHONE NO.:</td>
<td>936-336-9008</td>
</tr>
<tr>
<td>NAME OF CONTACT:</td>
<td>James Leonard</td>
</tr>
</tbody>
</table>
ORDINANCE NO. 2013-116

CONTRACT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

This Agreement is made and entered into this 3rd day of August, A. D., 2013, by and between the City of Pasadena, Texas, a municipal corporation situated in Harris County, Texas (the "City"), and Megasand Enterprises Inc. of Texas (the "Contractor"). In consideration of the covenants and agreements hereinafter contained the parties do hereby agree as follows:

I.

It is agreed that the following documents, to-wit: Notice to Bidders, Proposal to the City of Pasadena, Texas, Payment Bond, Performance Bond, if any, General Conditions of Bidding, and General Specifications for the purchase by the City of Pasadena, Texas of sand products (bank sand and cement stabilized sand) (Items #3 and #4) for a period of one (1) year beginning on or about the date of final City Council approval, with an option of two, one (1) year extensions in 2014 and 2015, according to specifications as set forth in Notice to Bidders, and bid received pursuant thereto on July 23, 2013, as well as any and all addenda, are a part of this contract as if set out in full at this part of the contract. Each of the parties hereto agrees to EXHIBIT "B"
carry out and perform each and all of the provisions of said
documents upon its part to be performed.

II.

Contractor agrees to supply and deliver sand products
(bank sand and cement stabilized sand) (Items #3 and #4) to the
City according to the specifications and formal proposal attached
hereto.

III.

City agrees to pay to Contractor the amount according to
the terms as set out in the aforesaid documents and
specifications.

IV.

The continuance of this contract is subject to and
dependent upon appropriation of the necessary funds by the City
Council and City reserves the continuing right to terminate at the
end of each fiscal year.

V.

If Contractor fails to perform any term of this
contract, including specifications and bid, City may terminate
this contract upon fifteen (15) days written notice to Contractor,
or City may terminate this contract at any time without cause upon
thirty (30) days written notice to Contractor.
In Witness Whereof, the City has caused this contract to be signed in its behalf by the Mayor, and Contractor has executed this contract the day and year first above written.

THE CITY OF PASADENA, TEXAS

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

LEE SLANE
CITY ATTORNEY
CITY OF PASADENA, TEXAS

THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 28 day of August, 2013 by JOHNNY ISBELL as MAYOR of the City of Pasadena, Texas.

CONNIE JO SMITH
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
Name: Connie Jo Smith

My Commission Expires: Aug. 07, 2014
THE STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 23rd day of August, 2013 by Brenda L. Moore, the President of MEGASAND ENTERPRISES INC., a Texas corporation, on behalf of said corporation.

Darla M. Duplication
NOTARY PUBLIC AND FOR THE STATE OF TEXAS
Name: Darla M. Duplication

My Commission expires: 3-5-2015
**City of Pasadena**

**Purchasing Office**
1211 Soutmore, Suite 201
Pasadena, Texas 77502
713-475-5532
Fax 713-472-0144

---

**INVITATION FOR BIDS (IFB)**

**Mailing Date**
July 7, 2013

**Title**
SAND PRODUCTS (Bank Sand & Cement Stabilized Sand)

**Number**
13-012

**Closing Date & Time**
July 22, 2013 @ 4:00 PM CST

**Pre-Bid Date, Time and Location**
n/a

**Name of Partnership, Corporation or Individual**
Megasand Enterprises Inc

**Taxpayer Identification Number**
76-0541357

**Mailing Address**
P.O. Box 656

**City-State-ZIP**
Highlands TX 77562

**PH:**
281-843-3000

**Fax:**
281-843-2390

**Total Bid Amount:**
72,777.50

**Email:**
brenda@megasand.com

**WEB Address:**

**Delivery:** Calendar days after receipt of Purchase Order:

**Payment Terms:**
____% , net 30

---

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the City of Pasadena the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the City of Pasadena all rights, titles and interest in and to all causes to action it may now or hereafter acquire under the Antitrust Laws of the United States and the State of Texas for price fixing relating to the particular commodities or services purchased or acquired by the City of Pasadena. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the bidder.

**Authorized Signature**

Brenda Moore, President
7-12-13

---

Please initial all that apply. I acknowledge receipt of the following addendum

Addendum #1
Addendum #2
Addendum #3
Addendum #4

---

Please note the following:

- This page must be completed and returned with your bid
- Bids must be submitted in a sealed envelope, marked with bid number & closing date.
- Bids received after the above closing date and time will not be accepted.
Notice to Bidders

Bid No. 13-012

The City of Pasadena, Texas intends to purchase and invites you to submit a sealed bid for:

Sand Products (Bank & Cement Stabilized Sand)

Sealed bids in duplicate will be received by the City of Pasadena, Texas on or before 4:00 PM on Monday, July 22, 2013 in the Office of the City Secretary, 1211 Southmore Ave., Room 115, Pasadena, Texas 77502. Bids will be publicly opened and read on July 23, 2013 at the 10:00 AM City Council meeting.

Invitation for Bids documents may be obtained via the Internet by contacting DemandStar.com or from the City of Pasadena Purchasing Department web page at www.ci.pasadena.tx.us. If you do not have internet access, you may obtain the documents by calling DemandStar by Onvia at (800) 711-1712 and request document number # 13-012 or contact the Purchasing Office at 1211 Southmore, Pasadena, Texas, 77502, (713) 475-5532.

IFBs may be either mailed or hand delivered to the City Secretary’s Office, 1211 Southmore, Room 115, Pasadena, TX 77502. Any IFB’s received after the above stated time will be returned to the bidder unopened.

The City Council reserves the right to waive any informalities or minor irregularities; reject any and all bids/proposals which are incomplete, conditional, obscure, or which contain additions not allowed for; accept or reject any bids/proposal in whole or in part with or without cause; and accept the bid/proposal which best serves the City.

Caution: It is the bidder’s/proposer’s responsibility to ensure that bids/proposals are received in the City Secretary’s Office prior to the date and time specified above. Receipt of a bid/proposal in any other City office does not satisfy this requirement.

Published in the Pasadena Citizen & City Website

Publish: July 7, 2013 & July 14, 2013
TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>STANDARD PURCHASE DEFINITIONS (IFB)</td>
<td>1</td>
</tr>
<tr>
<td>GENERAL REQUIREMENTS FOR BIDS</td>
<td>2</td>
</tr>
<tr>
<td>SPECIAL CONDITIONS</td>
<td>10</td>
</tr>
<tr>
<td>SPECIFICATIONS</td>
<td>12</td>
</tr>
<tr>
<td>BIDDER QUESTIONNAIRE &amp; CHECKLIST</td>
<td>14</td>
</tr>
<tr>
<td>BID PRICING SHEET</td>
<td>15</td>
</tr>
<tr>
<td>DEVIATION &amp; COMPLIANCE SIGNATURE FORM</td>
<td>18</td>
</tr>
<tr>
<td>NON-COLLUSION AFFIDAVIT</td>
<td>19</td>
</tr>
<tr>
<td>SOLICITATION QUESTIONNAIRE</td>
<td>20</td>
</tr>
<tr>
<td>BIDDER REFERENCES</td>
<td>21</td>
</tr>
<tr>
<td>LOCAL BIDDER PREFERENCE CLAIM FORM</td>
<td>22</td>
</tr>
<tr>
<td>FOR DISADVANTAGED BUSINESS ENTERPRISES ONLY</td>
<td>24</td>
</tr>
<tr>
<td>BID/PROPOSAL LABEL</td>
<td>25</td>
</tr>
</tbody>
</table>
STANDARD PURCHASE DEFINITIONS (IFB)

The City will use the following definitions in instructions to bidders, terms and conditions, special provisions, technical specifications and any other solicitation documents.

Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

1. Addendum means a written instrument issued by the Contract Awarding Authority that modifies or clarifies the Solicitation prior to the Due Date. "Addenda" is the plural form of the word.

2. Alternate Bid means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.

3. Appropriate, Appropriated, or Appropriation means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.

4. Bid is a complete, properly signed response to an invitation for bid, which if accepted, would bind the Bidder to perform the resultant Contract.

5. Bidder is a person, firm, or entity that submits a Bid in response to a Solicitation. Any Bidder may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.

6. Bid Guaranty guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.

7. Bids are responses to an Invitation for Bids.

8. City means the City of Pasadena, a Texas home-rule municipal corporation.

9. Construction means the construction, repair, rehabilitation, alteration, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.

10. Contractor means the person, firm or entity selling goods or services to the City under a Contract.

11. Deliverables means the goods, products, materials, and/or services to be provided to the City by a Bidder.

12. Due Date means the date and time specified for receipt of Bids.

13. Goods are supplies, materials, or equipment.

14. Invitation for Bid (IFB) means a Solicitation requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.

15. Lowest Responsible Bid means the Bid meeting all requirements of the specifications, terms, and conditions of the Invitation for Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.

16. Lowest Responsible Bidder means the Bidder submitting Lowest Responsible Bid.

17. Non-Professional Services are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.

18. Offer means a complete signed response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation for Bid, a proposal submitted in response to a Request for Proposal, a quote submitted in response to a Request for Quotation, or a statement of qualifications and interest submitted in response to a Request for Qualifications.

19. Pre-Bid Conference means a conference conducted by the Purchasing Office, held in order to allow Bidders to ask questions about the proposed Contract and particularly the Contract specifications.

20. Professional Services means services that use skills that are predominantly mental or intellectual, rather than physical or manual such as accounting, architecture, land surveying, law, medicine, optometry, professional engineering, etc.

21. Purchase Order is an order placed by the Purchasing Office for the purchase of Goods or Services within the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.

22. Services include all work or labor performed for the City on an independent contractor basis other than construction.

23. Solicitation means, as applicable, an Invitation for Bid, Request for Proposal, Request for Qualifications or a Request for Quotation.

24. Subcontractor means a person, firm or entity providing goods or services to a Bidder to be used in the performance of the Bidder's obligations under the Contract.

25. Unbalanced Bid means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.
GENERAL REQUIREMENTS FOR BIDS

These instructions are standard for all contracts for commodities or services issued through the City of Pasadena Purchasing Department. General Requirements apply to all advertised bids; however, these may be superseded, whole or in part, by the SPECIAL CONDITIONS OR OTHER DATA CONTAINED HEREIN.

READ THIS ENTIRE DOCUMENT CAREFULLY. FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS AND SPECIFICATIONS. BE SURE YOU UNDERSTAND THEM.

1. TERM CONTRACTS
   The CITY of PASADENA acceptance of Bidder’s offer shall be limited to the terms herein unless expressly agreed in writing by the CITY. If the contract is intended to cover a specific time period, the term will be given in the specifications under PERIOD OF CONTRACT.

2. ANTI-LOBBING PROVISION
   DURING THE PERIOD BETWEEN THE BID MAILING DATE AND THE CONTRACT AWARD, BIDDERS, INCLUDING THEIR AGENTS AND REPRESENTATIVES, SHALL NOT DIRECTLY DISCUSS OR PROMOTE THEIR BID WITH ANY MEMBER OF THE PASADENA CITY COUNCIL OR CITY STAFF EXCEPT IN THE COURSE OF CITY-SPONSORED INQUIRIES, BRIEFINGS, INTERVIEWS, OR PRESENTATIONS, UNLESS REQUESTED BY THE CITY.

   THIS PROVISION IS NOT MEANT TO PRECLUDE BIDDERS FROM DISCUSSING OTHER MATTERS WITH CITY COUNCIL MEMBERS OR CITY STAFF. THIS POLICY IS INTENDED TO CREATE A LEVEL PLAYING FIELD FOR ALL POTENTIAL BIDDERS, ASSURE THAT CONTRACT DECISIONS ARE MADE IN PUBLIC, AND TO PROTECT THE INTEGRITY OF THE BID PROCESS. VIOLATION OF THIS PROVISION MAY RESULT IN REJECTION OF THE BIDDER’S BID.

3. POTENTIAL CONFLICTS OF INTEREST
   An outside consultant or contractor is prohibited from submitting a bid for services on a CITY of PASADENA project of which the consultant or contractor was a designer or other previous contributor, or was an affiliate, subsidiary, joint venture or was in any other manner associated by ownership to any party that was a designer or other previous contributor. If such a consultant or contractor submits a prohibited bid, that bid shall be disqualified on the basis of conflict of interest, no matter when the conflict is discovered by CITY of PASADENA.

4. GOVERNING FORMS
   In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City’s interpretation shall govern.

5. GOVERNING LAW
   This bid solicitation is governed by the competitive bidding requirements of the CITY and Texas Local Government Code §252, as amended. Bidders shall comply with all applicable federal, state and local laws and regulations. Bidder is further advised that these requirements shall be fully governed by the laws of the State of Texas and that the CITY of PASADENA may request and rely on advice, decisions and opinions of the Attorney General of Texas and the City Attorney concerning any portion of these requirements.

6. APPLICABLE LAW AND VENUE
   Any agreement resulting from this IFB shall be construed according to the laws of the State of Texas. The City and vendors agree that the venue for any legal action under this agreement shall be the Harris County, Texas. In the event that any action is brought under any agreement resulting from the IFB in Federal Court, the venue for such action shall be in the Federal Judicial District of Harris County, Texas.

7. IMMIGRATION REFORM and CONTROL ACT (IRCA)
   The Immigration Reform and Control Act (IRCA), also Simpson-Mazzoni Act (Pub L. 99-603, 100 Stat. 3359, signed by President Ronald Reagan on November 6, 1986) is an Act of Congress which reformed United States immigration law. The Act made it illegal to knowingly hire or recruit illegal immigrants (immigrants who do not possess lawful work authorization), required employers to attest to their employees’ immigration status, and granted amnesty to certain illegal immigrants who entered the United States before January 1, 1982 and had resided there continuously. The Act also granted a path towards legalization to certain agricultural seasonal workers and immigrants who had been continuously and illegally present in the United States since January 1, 1982.
8. INTERLOCAL PARTICIPATION

8.1. The City may, from time to time, enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance the City's purchasing power. At the City's sole discretion and option, City may inform other Entities that they may acquire items listed in this Invitation for Bids (hereafter "IFB"). Such acquisition(s) shall be at the prices stated herein, and shall be subject to bidder's acceptance. Entities desiring to acquire items listed in this IFB shall be listed on a rider attached hereto, if known at the time of issuance of the IFB. City may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this bid. VENDOR shall sign and return any subsequently issued riders within ten calendar days of receipt.

8.2. In no event shall City be considered a dealer, re-marketer, agent or other representative of Vendor or Entity. Further, City shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

8.3. Entity purchase orders shall be submitted to Vendor by the Entity. City will not be liable or responsible for any obligations, including, but not limited to, payment, and for any item ordered by an entity other than City.

8.4. Vendor authorizes City's use of Vendor's name, trademarks and Vendor provided materials in City's presentations and promotions regarding the availability of use of this contract. The City makes no representation or guarantee as to any minimum amount being purchased by City or Entities, or whether Entity will purchase utilizing City's contract.

9. ADDENDA
When specifications are revised, the CITY OF PASADENA Purchasing Department will issue an addendum addressing the nature of the change. Bidders must sign and include it in the returned bid package.

10. SILENCE OF SPECIFICATIONS
The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

11. NAME BRANDS
Specifications may reference name brands and model numbers. It is not the intent of the CITY OF PASADENA to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Bidders may offer items of equal stature and the burden of proof of such stature rests with bidders. The CITY OF PASADENA shall act as sole judge in determining equality and acceptability of products offered.

12. RECYCLED MATERIALS
CITY of PASADENA encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. CITY of PASADENA will be the sole judge in determining product preference application.

13. INSPECTIONS & TESTING
City of Pasadena reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a bidder cannot furnish a sample of a bid item, where applicable, for review, or fails to satisfactorily show an ability to perform, the CITY can reject the bid as inadequate.

14. PRICING
Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Bid Pricing form. Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the bid prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, bidder MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

15. BID FORM COMPLETION
Unless otherwise specified, Bidders must use the bid forms supplied by the Purchasing Office. Fill out and return to the City Secretary's Office. An authorized representative of the bidder should sign the Bid Sheet. The contract will be binding only when signed by the CITY of PASADENA, funds are certified by the CITY Controller, as applicable, and a Purchase Order issued.
16. **SCANNED OR RE-TYPED RESPONSE**

If in its bid response, bidder either electronically scans, re-types, or in some way reproduces the City's published bid package, then in event of any conflict between the terms and provisions of the City's published bid specifications, or any portion thereof, and the terms and provisions of the bid response made by bidder, the City's bid specifications as published shall control. Furthermore, if an alteration of any kind to the City's published bid specifications is only discovered after the contract is executed and is or is not being performed; the contract is subject to immediate cancellation.

17. **BID RETURNS including ALTERNATE BIDS**

Bidder shall return one (1) "ORIGINAL" and one (1) "COPY" of the sealed bid in a sealed envelope or package of comparable size. Please cut out and affix the bid label on page 25 to the outermost mailing envelope (UPS, USPS, FEDEX, etc...) of your bid to ensure proper delivery!

Only one Bid per envelope. Alternate Bids shall be in a separate envelope and marked as Alternate Bid.

Bidders must return all completed bids to:

City of Pasadena
City Secretary’s Office
1211 Southmore, Suite 115
Pasadena, Texas 77502

by the date and time specified. **Late bids will not be accepted** and will be returned to Bidders unopened.

18. **SUPPLEMENTAL MATERIALS**

Bidders are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the bidder wishes to include as a condition of the bid, must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.

19. **VARIANCES**

For purposes of bid evaluation, Bidders must indicate any variances, no matter how slight, contained in the bid. No variations or exceptions by a bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bid pages. If variances are not stated, or referenced as required, it will be assumed that the product or service complies with the City's terms, conditions and specifications.

By receiving a bid, the City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.

20. **DISQUALIFICATION OF BIDDER**

Upon signing this bid document, a bidder offering to sell supplies, materials, services, or equipment to the CITY of PASADENA certifies that the bidder has not violated the antitrust laws of this state codified in Texas Business and Commerce Code §15.01, et seq., as amended, or the federal antitrust laws, and has not communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. Any or all bids may be rejected if the CITY believes that collusion exists among the bidders. Bids in which the prices are obviously unbalanced may be rejected. If multiple bids are submitted by a bidder and after the bids are opened, one of the bids is withdrawn, the result will be that all of the bids submitted by that bidder will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple bids for different products or services.

21. **AWARD OF CONTRACT**

21.1. Per Section § 252.043 of the Texas Local Government Code;

21.1.1. If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

21.1.2. In determining the best value for the municipality, the municipality may consider:

(a) the purchase price;
(b) the reputation of the bidder and of the bidder's goods or services;
(c) the quality of the bidder's goods or services;
(d) the extent to which the goods or services meet the municipality's needs;
Commodity Code: 750-77

IFB # 13-012 Sand Products (Bank Sand & Cement Stabilized Sand)

(e) the bidder's past relationship with the municipality;
(f) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
(g) the total long-term cost to the municipality to acquire the bidder's goods or services; and
(h) any relevant criteria specifically listed in the request for bids or proposals.

If Best Value is to be used, the City will use the evaluation criteria below:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price</td>
<td>80%</td>
</tr>
<tr>
<td>Mileage to Pick Up Materials</td>
<td>15%</td>
</tr>
<tr>
<td>Delivery Time</td>
<td>5%</td>
</tr>
</tbody>
</table>

21.2. The City reserves the right to make an award on the basis of low line item, low total of lines items, or in any other combination that serves the best interest of the City and to reject any and all bids or line items at the City's sole discretion. For the purpose of evaluation, any item left "blank" will be deemed "no bid".

21.3. The City reserves the right to accept any item or group of items on this bid, unless the bidder qualifies his/her bid by specific limitations.

21.4. A written award of acceptance (manifested by a City Ordinance) and appropriation mailed or otherwise furnished to the successful bidder results in a binding contract without further action by either party.

21.5. Breaking of tie bids shall be in accordance with the Texas Local Government Code § 271.901.

21.6. Although the information furnished to bidders specified the approximate quantities needed, based on the best available information where a contract is let on a unit price basis, payment shall be based on the actual quantities supplied. The City reserves the right to delete items, prior to the awarding of the contract, and purchase said items by other means; or after the awarding of the contract, to increase or decrease the quantities bid in accordance with § 252.048 of the Texas Local Government Code. No changes shall be made without written notification of the City.

21.7. The City of Pasadena reserves the right to waive any formality or irregularity, to make awards to more than one bidder, to reject any or all bids. In the event the lowest dollar bidder meeting specifications is not awarded a contract, the bidder may appear before the City Council, the governing body and present evidence concerning his responsibility after officially notifying the Purchasing Manager of his intent to appear.

22. EVALUATION
Evaluation shall be used as a determinant as to which bid items or services are the most efficient and/or most economical for the CITY. It shall be based on all factors that have a bearing on price and performance of the items in the user environment. All bids are subject to tabulation by the CITY OF PASADENA Purchasing Department and recommendation to the governing body. Compliance with all bid requirements, delivery and needs of the using department are considerations in evaluating bids. The CITY OF PASADENA Purchasing Department reserves the right to contact any bidder, at any time, to clarify, verify or request information with regard to any bid.

23. CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS

23.1. Pursuant to Subchapter Z, Chapter 271.9051, Texas Local Government Code, and City of Pasadena Resolution 2009-125, in purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent (5%) of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount of less than $100,000 or a contract for other purchases in an amount of less than $500,000 with:

23.1.1. the lowest bidder; or

23.1.2. the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

23.2. This section does not prohibit a municipality from rejecting all bids.

23.3. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.
23.4. In order to receive consideration, bidders must fill out and submit the Local Bidder's Preference Form.

24. PROTESTS:

24.1. All protests regarding the solicitation process must be submitted in written form to the Purchasing Manager within five (5) working days following the opening of bids/proposals. This includes all protests relating to legal advertisements, deadlines, bid/proposal openings, and all other related procedures under the Local Government Code, as well as any protests relating to alleged improprieties or ambiguities in the specifications contained herein or in the contract documents.

24.2. Post-award protests must be submitted in written form to the Purchasing Manager within five (5) working days after award and must specify the grounds upon which the protest is based. A valid protest shall:

24.2.1. come from an actual bidder or proposer for the contract, and
24.2.2. who claim to be the rightful awardee. That is, the protest is not valid if filed by a bidder who cannot show they would be awarded the contract if their protest were accepted.

24.3. The Purchasing Manager, having authority to make the final determination, will respond within ten (10) working days to each substantive issue raised in the protest. Allowances for reconsiderations shall be made only if data becomes available that was not previously known, or if there has been an error of law or regulation.

25. CONTRACT OBLIGATION

The CITY of PASADENA City Council must award the contract and the Mayor or other person authorized by the Mayor must sign the contract before it becomes binding on the CITY of PASADENA or the bidders. Department heads are NOT authorized to sign agreements for the CITY of PASADENA. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

26. BID DOCUMENTS AND BID EVALUATIONS

A vendor, as a member of the public may request a copy of the Bid Tabulation that is compiled when the bids are opened in City Council or in the Purchasing Department after a request for Public Information is received in accordance with Texas Government Code, Chapter 552.

The City will not release copies of bids or the bid evaluations until after the contract has been awarded and passed on second and final reading by the City Council. In accordance with Texas Government Code, Chapter 552.104, exception: Information Related to Competition or Bidding. (a) Information is exempted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder. This is not a waiver of any exception to the requirements of public disclosure contained in the Texas Public Information Act including, but not limited to, trade secrets or other commercial or financial information that is made confidential by law.

27. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful vendor as independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful vendor under this contract and that the successful vendor has no authority to bind the City.

28. FISCAL FUNDING

A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the bidder from the using department without penalty of any kind or form to the CITY OF PASADENA. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the bidder.

29. GRANT FUNDING

Any contract entered into by the CITY that is to be paid from grant funds shall be limited to payment from the grant funding and the vendor/provider understands that the CITY has not set aside any CITY funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid for by the grant, and further funding cannot be obtained for the contract, then the sole recourse of the provider shall be to terminate any further services under the contract and the contract shall be null and void.

30. INSURANCE

If required, specific insurance provisions will be included in bid specifications. A copy of an insurance certificate must be submitted within ten days from request. The successful vendor will be required to maintain, at all times during performance of the contract, the insurance detailed in bid specifications. Failure to provide this document may result in disqualification of bid.
31. **WAIVER OF SUBROGATION**
Bidder and bidder's insurance carrier waive any and all rights whatsoever with regard to subrogation against CITY of PASADENA as an indirect party to any suit arising out of personal or property damages resulting from bidder's performance under this agreement.

32. **TERMINATION**
The CITY of PASADENA reserves the right to terminate the contract for default if bidder breaches any of the terms therein, including warranties of bidder or if the bidder becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the CITY of PASADENA may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements.

33. **TERMINATION-NOTICE**
Either party may cancel the contract at any time after award. The City shall be required to give the vendor notice thirty days prior to the date of cancellation of the contract. The vendor shall be required to give the City written notice sixty days prior to the date of cancellation of the contract. The CITY of PASADENA may terminate the contract without cause upon thirty (30) days written notice.

34. **INDEMNITY**

34.1. CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF THE CITY, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY, DIRECTLY OR INDIRECTLY ARISING OUT OF RESULTING FROM OR RELATED TO BID ACTIVITIES UNDER THIS BID, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. CONTRACTOR SHALL PROMPTLY ADVISE THE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO OR ARISING OUT OF CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT CONTRACTOR'S COST. THE CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CONTRACTOR OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

34.2. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION, IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY FROM CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE, PROVIDED HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF THE CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF THE CITY IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. CONTRACTOR FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, ANY CLAIM OR LITIGATION BROUGHT AGAINST THE CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

34.3. **PATENTS/COPYRIGHTS**
The successful vendor agrees to indemnify and hold the City harmless from any claim involving patent infringement or copyrights on goods supplied.
35. **PURCHASE ORDER AND DELIVERY**

The successful bidder shall not deliver products or provide services without a CITY of PASADENA Purchase Order, signed by an authorized agent of the CITY of PASADENA Purchasing Department. The fastest, most reasonable delivery time shall be indicated by the bidder in the proper place on the Pricing/Delivery Information form. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped F.O.B. INSIDE DELIVERY unless otherwise stated in the specifications. This shall be understood to include bringing merchandise to the appropriate room or place designated by the using department. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach which must be rectified prior to expiration of the time for performance. Failure to rectify within the performance period will be considered cause to reject future deliveries and cancellation of the contract by CITY of PASADENA without prejudice to other remedies provided by law. Where delivery times are critical, the CITY of PASADENA reserves the right to award accordingly.

36. **DELIVERY OF GOODS/SERVICES**

36.1. All materials are to be delivered F.O.B.; City of Pasadena designated facility.

36.2. Delivery dates pertaining to this invitation must be clearly stated in the bid form where required and include weekends and holidays. Failure to comply with this requirement may be a cause for disqualification of bid. Unless otherwise specified, delivery at the earliest date is required. The bidder will clearly state in the bid the time required for delivery upon receipt of contract or purchase order. Proposed delivery time must be specific and such phrases “as required,” “as soon as possible” or “prompt” may result in disqualification of the bid.

36.3. Upon award of a contract, the vendor is obligated to deliver the goods to the destination specified in the Invitation for Bids or the Purchase Order and bears the risk of loss until delivery. If this Invitation for Bids or Purchase Order does not contain delivery instructions, bidders shall request instructions in writing from the Purchasing Manager. If the delivery instructions contained in the Invitation for Bids allocate delivery costs and risks in a manner contrary to this section, the provisions of this Invitation for Bids shall prevail.

36.4. The City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by vendor. The City at its option may reject all or any portion of such goods or services which do not, in City’s sole discretion, comply in every respect with all terms and conditions of the contract. The City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If the City elects to accept nonconforming goods and services, the City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate the City for the nonconformity. Any acceptance by the City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

36.5. When delivery is not met as provided for in the contract, the Purchasing Department reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the vendor, in addition to any other damages, direct or consequential, incurred by the City as a result thereof. In addition, failure of the vendor to meet the contract delivery dates will be cause for removal of the vendor from the City’s list of eligible bidders as determined by the Purchasing Department.

37. **MATERIAL SAFETY DATA SHEETS**

Under the “Hazardous Communication Act”, commonly known as the “Texas Right to Know Act”, a bidder must provide to the CITY with each delivery, material safety data sheets, which are applicable to hazardous substances, defined in the Act. Failure of the bidder to furnish this documentation will be cause to reject any bid applying thereto.

38. **TITLE TRANSFER**

Title and Risk of Loss of goods shall not pass to CITY of PASADENA until CITY of PASADENA actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Bidders are advised to consult the using department for instructions. The place of delivery shall be shown under the “Special Requirements/Instructions” section of this bid package and/or on the Purchase Order as a “Deliver To:” address.

39. **WARRANTIES**

Bidders shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Bidders may not limit or exclude any implied warranties. Bidder warrants that product sold to the CITY shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, CITY of PASADENA may return the product for correction or replacement at the bidder’s expense. If bidder fails to make the appropriate correction within a reasonable time, CITY of PASADENA may correct at the bidder’s expense.
40. **INVOICES AND PAYMENTS**
Bidders shall submit an original invoice on each purchase order or purchase release after each delivery, indicating the purchase order number. Invoices must be itemized. Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the bidder for correction. Under term contracts, when multiple deliveries and/or services are required, the bidder may invoice following each delivery and the CITY will pay on invoice. Contracts providing for a monthly charge will be billed and paid on a monthly basis only. Prior to any and all payments made for goods and/or services provided under this contract, the bidder should provide his Taxpayer Identification Number or social security number as applicable. This information must be on file with the CITY Finance office. Failure to provide this information may result in a delay in payment and/or back-up withholding as required by the Internal Revenue Service.

41. **TAXES**
The CITY of PASADENA is exempt from all federal excise, state and local taxes unless otherwise stated in this document. The CITY of PASADENA claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the CITY of PASADENA Purchasing Department.

42. **ASSIGNMENT**
The successful vendor shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City of Pasadena Purchasing Department. Any such assignment or transfer shall not release vendor from all contractual obligations.

43. **CONTRACT RENEWALS**
Renewals may be made ONLY by written agreement between the CITY of PASADENA and the bidder.

43.1. No request for a price escalation will be considered for the first year of the contract period. Requests for price escalation at the time of contract renewal may be made under the following conditions:

43.1.1. Contractor will be required to provide written confirmation from his supplier indicating the exact percentage of increase as well as the effective date of the escalation; OR

43.1.2. Such adjustment shall be based on the latest 12-Month Percent Change in the Producer Price Index – Industry Data, (Series ID: PCU2123212123210) as published by the Bureau of Labor Statistics, U.S. Department of Labor.

Any requested adjustment shall be fully documented and submitted to the City at the time the Contractor agrees to an extension. Any approved cost adjustments shall become effective on the beginning date of the approved contract extension.

43.1.3. The City reserves the right to accept or reject the price increase;

43.1.4. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the Contract will be considered cancelled on the scheduled expiration date.

44. **HOUSE BILL 914 DISCLOSURE OF CERTAIN RELATIONSHIPS**
The Texas Ethics Commission adopted Form CIQ (Conflict of Interest Questionnaire) pursuant to H.B. 914. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor or person considering doing business with a local government entity disclose pertinent information in the Questionnaire Form CIQ.

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

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

The CIQ Form can be located at [http://www.ethics.state.tx.us/forms/CIQ.pdf](http://www.ethics.state.tx.us/forms/CIQ.pdf)
CITY OF PASADENA
PURCHASING OFFICE

SPECIAL CONDITIONS

1. Information or Clarification
   All questions concerning the technical specifications or scope of services shall be submitted in writing to the Purchasing Department, Attn: Richard Bennett at 1211 Southmore, Suite 201, Pasadena, Texas, 77502, emailed to Rbennett@ci.pasadena.tx.us or faxed to (713) 472-0144. Questions must be received no later than seven (7) days prior to the IFB due date. Such contact shall be for clarification purposes only. Revision to specifications, scope of services, bidding procedures, if any, will be notified with a written addendum by the Purchasing department.

2. The City reserves the right to award a primary contract and a secondary contract in an effort to secure a back-up contractor to be used in emergency situations in the event the primary contractor is unable to respond as needed.

3. Warranties of Usage
   3.1. Orders shall be placed on an "as needed" basis. Bidder shall advise if there is a minimum dollar amount per order.
   3.2. Any estimated quantities listed are for information and tabulation purposes only. No warranty or guarantee of quantities needed is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
   3.3. Quantities are estimated and based on projected usage. It is specifically understood and agreed that these quantities are approximate and any increased quantities will be paid at the regular quoted price. The contractor shall not have any claims against the City for any quantities ordered that are less than the estimated bid amount.

4. Availability of Materials
   Materials shall be available for delivery or pick-up in quantities as specified by the City within twenty-four (24) hours after notification by the City has been given. Material must be available for delivery five (5) days per week from 7:00 a.m until 5:00 p.m, Monday through Friday. If the Contractor is unable to comply with this requirement, after delivery is requested, the City reserves the right to purchase material in the open market and charge the difference in cost, if any, to the contractor.
   In case of an emergency experienced by a City, the vendor is requested to supply the needed material immediately, if possible. If the vendor cannot respond, then the emergency requirement may be purchased on the open market. Such emergency purchases shall not be considered a breach of contract by the State or the vendor.

5. Contaminated Materials
   All vendors shall be required to identify their source of supply. No material will be accepted from a hazardous or toxic waste site, regardless of whether the site as been identified by either a Local, State or Federal Agency. No contaminated, toxic, hazardous waste products or heavy metal product shall be contained in these deliveries. If any material, supplied to the City under this Contract, is found to be contaminated or contain heavy metal products, it will be the responsibility of the Contractor to remove and replace the contaminated product at their expense and at no cost to the City. The City has the option to contract the removal of any contaminated material and charge back the Contractor any and all costs involved.

6. Travel Distance & Plant Location
   Travel Distance will be a consideration in evaluating the "picked up price". The City will be the sole judge as to the cost of said Travel Distance. Bidder must list the address of the plant nearest to the Pasadena City Limits where the City would pick up items on the bottom of Page 16 of this Bid.

7. Delivery and/or Pickup
   7.1. The Contractor agrees that no items shall be delivered and/or picked up until he receives a purchase order, duly signed and approved by the City Purchasing Manager. Items delivered and/or picked up without a purchase order shall be at bidder's risk and shall leave the City the option of canceling any contract implied or expressed herein.
   7.2. Material shall be available for pick up in quantities as specified by the City within twenty four (24) hours after notification by the City has been given. If the contractor is unable to comply with this requirement, the City reserves the right to purchase material in the open market and charge the difference in cost, if any, to the Contractor.
7.3. Material bid as picked up shall be placed in City trucks at the bidder's location. City employees are required to have state certified weight tickets before and after pickup.

7.4. Material bid on as delivered shall be delivered to various jobsite locations in the City by the bidder as ordered by the City. The total weight of materials delivered shall be obtained from state certified weigh tickets and must be submitted with the delivery ticket. These state certified weight tickets shall be obtained by and at the expense of the vendor.

8. Late Deliveries
If a delivery delay is foreseen, vendor shall give notice to the City. The City has the right to extend the delivery date if reasons appear valid. The vendor must keep the City advised at all times of the status of the order. If the vendor has orders in their possession which have not been completed within the specified delivery time, the City reserves the right to withhold issuance of further orders until all orders have been filled and acceptable assurance has been given that the event will not be repeated.

9. Emergency Orders
Emergency orders and services may be required. Therefore, the successful bidder must be able to respond and provide such services as nights and weekend deliveries. The vendor will be compensated the actual cost for premium transportation charges when specifically authorized by the City.

10. Fuel Surcharges are not allowed. All delivery fees must be added into the unit prices on delivered items only.
1. **Scope:**
The City of Pasadena is seeking Bids from qualified suppliers, hereinafter referred to as the Contractor, to provide **Sand Products (Bank Sand & Cement Stabilized Sand)** in accordance with the terms, conditions, and specifications contained in this Invitation for Bid (IFB). This supply contract will be utilized by various Divisions of the Public Works Department for construction and/or repairs of streets, water lines and sewer lines located throughout the city.

2. **Period of Contract:**
The initial term of the agreement shall be for a period of one (1) year from the date of approval by City Council, the right to extend the contract period for two (2) additional, one (1) year periods in 2014 & 2015 upon mutual agreement between the City of Pasadena and the contractor.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Purchasing Manager. The extension period shall not extend for more than 90 days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the City.

3. **Definitions**

3.1. **Unsuitable Material:** Unsuitable soil materials are the following:

(a) Materials that are classified as ML, CL-ML, MH, PT, OH, and OL according to ASTM D 2487.

(b) Materials that cannot be compacted to the required density due to either gradation, plasticity, or moisture content.

(c) Materials that contain large clods, aggregates, and stones greater than 4 inches in any dimension; debris, vegetation, and waste; or any other deleterious materials.

(d) Materials that are contaminated with hydrocarbons or other chemical contaminants.

3.2. **Suitable Material:** Suitable soil materials are the following:

(a) Those meeting specification requirements.

(b) Unsuitable soils meeting specification requirements for suitable soils after treatment with lime or cement.

4. **References**

- ASTM C 33: Specification for Concrete Aggregate.
5. **Product Descriptions**

5.1. **Bank Run Sand**
Durable bank run sand classified as SP, SW, or SM by the Unified Soil Classification System (ASTM D 2487) meeting the following requirements:

- **(a)** Less than 15 percent passing the number 200 sieve when tested in accordance with ASTM D 1140. The amount of clay lumps or balls not exceeding 2 percent.

- **(b)** Material passing the number 40 sieve shall meet the following requirements when tested in accordance with ASTM D 4318:
  - 5.1.b.1. Liquid limit: not exceeding 25 percent.
  - 5.1.b.2. Plasticity index: not exceeding 7.

5.2. **Cement Stabilized Sand**

- **(a)** Cement: Type I Portland cement conforming to ASTM C 150.

- **(b)** Sand: Clean, durable sand meeting grading requirements for fine aggregates of ASTM C 33.

- **(c)** DESIGN REQUIREMENTS
  Sand-cement mixture shall produce a minimum unconfined compressive strength of 100 pounds per square inch in 48 hours.

  - 5.2.c.1. Design will be based on strength specimens molded in accordance with ASTM D 558 at moisture content within 3 percent of optimum and within 4 hours of batching.

  - 5.2.c.2. Minimum cement content **shall contain no less than 1.5 sacks of cement per ton of dry sand**.
# CITY OF PASADENA
**PURCHASING DEPARTMENT**

**BIDDER QUESTIONNAIRE & CHECKLIST**

<table>
<thead>
<tr>
<th>Item</th>
<th>Note</th>
<th>Bidders Init.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>General Requirements for Bids (pgs 2 - 9)</td>
<td>I acknowledge reading and understanding the General Requirements for Bids</td>
</tr>
<tr>
<td>2</td>
<td>Special Conditions (pgs 10 - 11)</td>
<td>I acknowledge reading and understanding the Special Conditions.</td>
</tr>
<tr>
<td>3</td>
<td>Specifications (pgs 12 - 13)</td>
<td>I acknowledge reading and understanding the Specifications.</td>
</tr>
</tbody>
</table>

**DID YOU REMEMBER TO:**

| 4    | Fill out and return the Invitation for Bid (IFB) cover sheet. |
| 5    | Fill out and return the Bid Pricing Sheet (pgs 15 - 17) |
| 6    | Fill out and return the Deviation & Compliance Signature Form (if applicable) (pg 18) |
| 7    | Fill out and return the Non-Collusion Affidavit and have it Notarized. (pg 19) |
| 8    | Fill out and return the Solicitation Questionnaire. (pg 20) |
| 9    | Fill out and return the Bidder References Form (pg 21) |
| 10   | Fill out and return the Local Bidder Preference Claim Form (if applicable) (pgs 22 - 23) |
| 11   | Fill out and return the Disadvantaged Business Enterprises Only Form (if applicable) (pg 24) |
| 12   | Cut and put LABEL on the OUTERMOST envelope. (UPS, FedEx, Priority, etc....) (pg 25) |
CITY OF PASADENA
PURCHASING OFFICE

BID PRICING SHEET

For the purpose of evaluation, any item left “blank” will be deemed “no bid”.

THIS IS A UNIT PRICE CONTRACT

BIDDER NAME: Megasand Enterprises Inc.

Bidder agrees to supply the products or services at the prices bid below in accordance with the terms, conditions, and specifications contained in this IFB.

** Unit Pricing must be rounded to the nearest hundredths (0.00)**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Est. Qty</th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BANK SAND – Delivered to various locations within the City, as needed</td>
<td>50</td>
<td>Cubic Yard</td>
<td>$14.50</td>
<td>$725.00</td>
</tr>
<tr>
<td>2</td>
<td>BANK SAND - Picked-Up in City Trucks, as needed</td>
<td>360</td>
<td>Cubic Yard</td>
<td>$5.00</td>
<td>$1800.00</td>
</tr>
<tr>
<td>3</td>
<td>CEMENT STABILIZED SAND – (3 Sack Mix) Delivered to various locations within the City, as needed</td>
<td>50</td>
<td>Tons</td>
<td>$28.75</td>
<td>$1437.50</td>
</tr>
<tr>
<td>4</td>
<td>CEMENT STABILIZED SAND – (3 Sack Mix) Picked-Up in City Trucks, as needed</td>
<td>150</td>
<td>Tons</td>
<td>$22.10</td>
<td>$3315.00</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL FOR ALL LINE ITEMS</strong></td>
<td></td>
<td></td>
<td></td>
<td>$7297.50</td>
</tr>
</tbody>
</table>

Delivery Time and the Additional Fees & Charges shall be a determining factor in selecting the best value for the City.

Items 3 & 4 - State the amount of cement in your Cement Stabilized Sand. 1570 Sacks of cement per ton of dry sand.

Additional Fees & Charges

Cost of each additional sack above 3 sack mix? (if any) $6.50 Per Sack
Minimum load, before a load fee is imposed? (if any) 12/14 Yards/Tons
Fee per yard/ton, below the minimum load? (if any) $6.50/10.00 Per Yard/Ton
Additional Charge for weekend and after 5:00 p.m. deliveries $20.00/35.00 Per Yard/Ton

DELIVERY

The specified delivery time shall be a firm time. The delivery time after receipt of order (ARO) shall be one of the determining factors in selecting the bid that is the best value for the City.

1 calendar days after receipt of order. Minimum dollar amount per order $______ (Must be filled in)
Commodity Code: 750-77

IFB # 13-012 Sand Products (Bank Sand & Cement Stabilized Sand)

Contact information for checking status of orders and delivery:
Contact Name: Robert Gonzalas
Title: Dispatcher
Telephone: 281-843-3000
Fax:

Below, please list the physical location of your nearest location for the following items.

Bank Sand Pick Up Location:
11501 Crosby Lynchburg Road - Crosby TX 77532
Physical location (street address, city, state, zip) of the nearest plant to the City of Pasadena.

Cement Stabilized Sand Pick Up Location:
11501 Crosby Lynchburg Road - Crosby TX 77532
Physical location (street address, city, state, zip) of the nearest plant to the City of Pasadena.

METHOD OF PAYMENT:
1. PAYMENT TERMS: Net 30 (Vendor paid within 30 days of invoice or receipt of goods accepted in good order.)
2. PROMPT PAYMENT DISCOUNT: ______% within 10 days (e.g. 1%, 2%, 5%)
   AND/OR (check one)
3. PROCUREMENT CARD PROGRAM ______yes ______no
   (This payment method would allow for vendor payments to be made within 24 hours of use by City through City's Procurement Card Program provider, Chase-MasterCard)
   --If "yes" discount offered: ______% (e.g. 1%, 2%, 5%)

The undersigned hereby certifies that he understands all the above specifications, has read them carefully, and will deliver and furnish all merchandise and services as specified above in this bid.

Bidder shall return two (2) copies of this bid proposal filled out in full and signed. One (1) copy marked "ORIGINAL" and one (1) copy marked "COPY".

Accounts Payables Information:
Contact Name: Brenda Moore
Title: President
Mailing Address: P.O. Box 652
City: Highlands
State: TX Zip: 77562
Telephone: 281-843-3000
Fax: 281-843-2390
The undersigned hereby certifies that he/she understands all the above specifications, has read them carefully, and will deliver and furnish all merchandise and services as specified above in this bid.

Bidder shall return two (2) copies of this bid proposal filled out in full and signed. One (1) copy marked "ORIGINAL" and one (1) copy marked "COPY".

Signature: Brenda L. Moore
Title: President
Company Name: Megasand Enterprises, Inc.
Date: 7-12-13

FULL LEGAL FIRM/COMPANY NAME: Megasand Enterprises, Inc.
BUSINESS STREET ADDRESS: 1501 Cassby Lynchburg Rd. Crosby TX 77532
BUSINESS MAILING ADDRESS: P.O. Box 656, Hightower, TX 77562
BUSINESS TELEPHONE NUMBER: 281-843-3006
BUSINESS FAX NUMBER: 281-843-2340
COUNTY: Harris  MINORITY OWNED: Yes ☑ No ☐ # OF EMPLOYEES: 15

YEAR ESTABLISHED: 1997 NUMBER OF YEARS IN BUSINESS: 17
FEDERAL ID NO.: 76-0541357
NATURE OF BUSINESS: mining/drying sand

PRINCIPALS:
NAME: Brenda L. Moore TITLE: President
NAME: Danny C. Moore TITLE: VP
NAME: Fred Angel TITLE: Sec/ Treas.
DEVIATION & COMPLIANCE SIGNATURE FORM

If you intend to deviate from the General Terms and Conditions or Item Specifications listed in this Invitation For Bids, you must list all such deviations on this form, with complete and detailed conditions and information included or attached. The City will consider any deviations in its award decisions, and the City reserves the right to accept or reject any proposal based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this form, you assure the City that you will fully comply with the General Terms and Conditions, Specifications and all other information contained in this Invitation For Bids.

Do you have any Deviations: [X] No Deviations (Please sign this form below) [ ] Yes Deviations (Please sign this form below)

List any deviations you are submitting below:

<table>
<thead>
<tr>
<th>PAGE NO.</th>
<th>ITEM NO.</th>
<th>DESCRIPTION OF DEVIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Signature: Brenda L. Moore
Title: President
Company Name: Mcgrass Enterprises Inc.
CITY OF PASADENA
PURCHASING OFFICE

NON-COLLUSION AFFIDAVIT

State of Texas (State)
County of Harris (County) \

Being first duly sworn, deposes and says that:

1. He/She is the President (Owner, Partner, Officer, Representative or Agent)
   of Megasand Enterprises Co. (Company), the party that has submitted the attached Proposal;

2. He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

3. Such Proposal is genuine and is not a collusive or sham Proposal;

4. Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Proposer, firm, or person to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;

5. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Authorized Representative’s Signature
Brenda L. Moore

Representative’s Name
Brenda L. Moore

Company Name
Megasand Enterprises Co.

Representative’s Title
President

On this the 22 day of July, 2013, before me, the undersigned Notary Public of the State of Texas, personally appeared the individual whose name is subscribed to within the instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal.

NOTARY PUBLIC

SEAL OF OFFICE:
SOLICITATION QUESTIONNAIRE

The City of Pasadena Purchasing Department constantly strives to improve competitive bidding with historically underutilized businesses (HUB). In order to facilitate these improvements, we would like to know how you were informed that this Invitation for Bid was active and how you may have received a copy of the document.

How did you learn of this bid opportunity?

☐ Direct Contact with Purchasing.
☐ City of Pasadena Website www.ci.pasadena.tx.us
☐ Bid notification service (i.e. DemandStar)
☐ Newspaper or trade publication
☐ City Information Cable Channel 16
☐ Another Vendor or Supplier
☐ Chamber of Commerce
☐ North Pasadena Business Association
☐ Port Area Networking
 coaches=mail=mailed bid package

How did you obtain your copy of the Bid Document?

☐ Direct Contact with Purchasing
☐ Via Email ☐ Via Fax ☐ In Person
☐ City of Pasadena Website www.ci.pasadena.tx.us
☐ Bid notification service (i.e. DemandStar)
☐ Other Means: Describe USPS
Commodity Code: 750-77

IFB #13-012 Sand Products (Bank Sand & Cement Stabilized Sand)

CITY OF PASADENA
PURCHASING OFFICE

BIDDER REFERENCES

Please list three (3) references, preferably a Government (local, county, state) or Educational Agency we may contact:

1. COMPANY NAME: Angel Brothers
   ADDRESS: P. O. Box
   CITY / STATE / ZIP: Baytown, TX 77522
   PHONE NO.: 281-421-5721
   NAME OF CONTACT: Robert Carter

2. COMPANY NAME: New Contractors
   ADDRESS: P. O. Box 1075
   CITY / STATE / ZIP: Channelview, TX 77530
   PHONE NO.: 281-456-0898
   NAME OF CONTACT: Kathy

3. COMPANY NAME: W.T. Byler
   ADDRESS: 15203 Lellyai
   CITY / STATE / ZIP: Houston, TX 77060
   PHONE NO.: 281-445-2070
   NAME OF CONTACT: Estimating
CITY OF PASADENA
PURCHASING OFFICE

LOCAL BIDDER PREFERENCE CLAIM FORM

Sections 271.905 and 281.9051 of the Texas Local Government Code authorize a municipality to consider a vendor's location in the determination of a bid award if the lowest bid received is from a business outside the municipality and contracting with a local bidder would provide the best combination of price and other economic benefits to the municipality. The City of Pasadena has determined that the allowable preference shall be applied to local vendor's bids for the purposes of evaluation when in the best interest of the City to do so. This request form and any attachments must be submitted with bid package to be considered by the City of Pasadena. Questions should be addressed to the Purchasing department at 713-475-5532. Exclusions to the local preference include expenditures of $3,000 or less or greater than $100,000, and those purchases that are: sole-source, emergency, federally-funded, cooperative contracts, or via interlocal agreement. The local preference status will expire one year from the date of this form; for any subsequent requests for preference during this period, the applicant need only complete and submit section 3 of this form.

The City requires the following information for consideration of a local bidder preference (information may be submitted in an attachment to this form):

1) Location Eligibility: Principal place of business in Pasadena, Texas. Principal place of business is defined herein as any business that owns or leases a commercial building within the City limits and uses the building for actual business operations.

   (a) If yes, identify name of business/DBA, address and business structure: sole proprietorship, partnership, corporation, or other.

   Name of business/dba: __________________________________________________________
   Address: _______________________________________________________________________
   City: _______________________ St: _____ Zip: _____
   Business Structure: ☐ Sole Proprietorship ☐ Partnership
   ☐ Corporation ☐ Other

   (b) Name and city of residence of owner(s)/partners/corporate officers as applicable.

   Name: __________________________________________
   City: __________________________________________

2) General Business Information:

   (a) Year business established (Pasadena location).

   (b) Most recent year property valuation (if owned); real and personal property. $ __________

   (c) Annual taxable sales (originating in Pasadena) $ __________

   (d) Is business current on all property and sales taxes at the time of this application? ☑ Yes ☐ No

   (e) Total number of current employees ___ and number of Pasadena-resident employees ___

3) Economic Development benefits resulting from award of this contract:

   (a) Number of additional jobs created ___ or retained for Pasadena resident-employees ___

   (b) Local subcontractors utilized, if applicable; name, location and contract value for each

       Name: __________________________________________
       Address: _______________________________________________________________________
       Contract Value: $ __________

   (c) Other economic development benefit deemed pertinent by applicant
Certification of Information:
(continued)

The undersigned does hereby affirm that the information supplied is true and correct as of the date hereof; under penalty of perjury.

City Bid Number/Quote for which the local preference is requested: 13-012

Meggsand Enterprises Inc. 7-22-13

(Print name of bidder) (Date)

(Signature)

THE STATE OF TEXAS §
COUNTY OF HARRIS §

Appeared before me the above-named Brenda L. Moore, known to me to be the same, and swore that the information provided in response to the foregoing questions are true and correct to the best of his/her knowledge and belief, this 27 day of July, 2013.

Kristen N. Marquez
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: KRISTEN N. MARQUEZ
Commission Expires: 8-30-2014
The City of Pasadena recognizes the certifications of the State of Texas General Services Commission HUB Program. All companies seeking information concerning DBE certification are urged to contact:

State of Texas HUB Program
General Services Commission
PO Box 13047
Austin, TX 78711-3047
(512) 463-5872

If your company is already certified, attach a copy of your certification to this form and return with your bid.

___________________________________________________________
Firm Name Submitting Bid

___________________________________________________________
Representative

___________________________________________________________
Title of Authorized Representative

___________________________________________________________
Address

___________________________________________________________
City, State, Zip

___________________________________________________________
Telephone Number

___________________________________________________________
Telefax Number

Indicate all that apply:

☐ Minority-Owned Business Enterprise
☐ Women-Owned Business Enterprise
☐ Disadvantaged Business Enterprise

HUB Certification #: ________________________________