

AN ORDINANCE 2011-03-10-0192

ACCEPTING THE BID FROM PHILPOTT MOTORS TO PROVIDE UP TO EIGHTY ADMINISTRATIVE SEDANS FOR A TOTAL COST OF \$1,671,680.00, FUNDED BY THE EQUIPMENT RENEWAL & REPLACEMENT FUND AND THE GENERAL FUND.

* * * * *

WHEREAS, bids were submitted to provide various departments of the City of San Antonio with up to eighty (80) administrative sedans; and

WHEREAS, the low bid was submitted by Philpott Motors for a total cost of \$1,671,680.00; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The bid submitted by Philpott Motors to provide the City with eighty (80) 2011 Toyota Prius sedans for a total cost of \$1,671,680.00 is hereby accepted, subject to and contingent upon the deposit of all required bonds, performance deposits, insurance certificates and endorsements. Attached hereto and incorporated herein for all purposes as **Exhibit I** is the bid and bid tabulation sheet.

SECTION 2. Funding in the amount of \$1,462,720.00 for this ordinance is available as part of the Fiscal Year 2011 Budget per the table below:

Amount	Fund	Cost Center	General Ledger
\$1,295,552.00	72001000	1503200001	5501050
\$167,168.00	11001000	6105010001	5501050
Total Amount: \$1,462,720.00			

SECTION 3. Payment not to exceed the budgeted amount is authorized to Philpott Motors and should be encumbered with a purchase order.

SECTION 4. Additional funding for this ordinance in the amount up to \$208,960.00 will be identified if and when purchase orders are issued from the potential funding sources. All expenditures will comply with Operating Budgets for current and future fiscal years.

SECTION 5. Payment not to exceed the limitations of the budgeted amount up to \$208,960.00 is authorized to Philpott Motors and should be encumbered with a purchase order.

SECTION 6. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

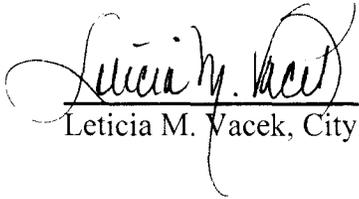
SECTION 7. This ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise it shall be effective on the tenth day after passage hereof.

PASSED AND APPROVED this 10th day of March, 2011.



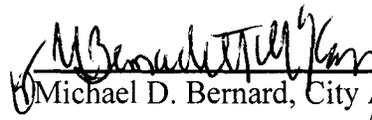
M A Y O R
Julián Castro

ATTEST:

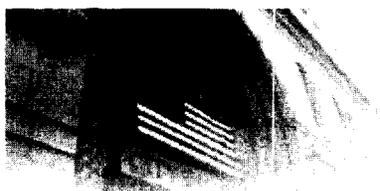


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

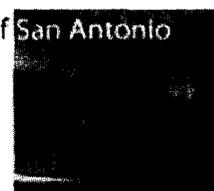


Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**

City of San Antonio



Agenda Voting Results - 8

Name:	8						
Date:	03/10/2011						
Time:	10:10:42 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance accepting the bid from Philpott Motors to provide up to eighty administrative sedans for a total cost of \$1,671,680.00, funded by the Equipment Renewal & Replacement Fund and the General Fund. [Ben Gorzell, Chief Financial Officer; Janie Cantu, Director, Purchasing & General Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5	x					
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				
W. Reed Williams	District 8		x			x	
Elisa Chan	District 9		x				x
John G. Clamp	District 10		x				

Exhibit I

CITY OF SAN ANTONIO PURCHASING & GENERAL SERVICES DEPARTMENT

Issued By: DDG
BID NO.: 11-031 DDG

Date Issued: November 24, 2010

FORMAL INVITATION FOR BIDS
GASOLINE/ELECTRIC POWERED HYBRID SEDANS

Sealed bids in triplicate, subject to the Terms and Conditions of this Invitation for Bids and other contract provisions, will be received at the City Clerk, City Hall until 2:00 P.M. Central Time, December 13, 2010.

The City of San Antonio Purchasing & General Services Department is willing to assist any bidder(s) in the interpretation of bid provisions or explanation of how bid forms are to be completed. Assistance may be received by visiting the Purchasing Office in the Riverview Tower, 111 Soledad, Suite 1100, or by calling (210) 207-7260.

This invitation includes the following:

- Invitation for Bids
Terms and Conditions of Invitation for Bids
Specifications and General Requirements
Price Schedule

The undersigned, by his/her signature, represents that he/she is authorized to bind the Bidder to fully comply with the Specifications and General Requirements for the amount(s) shown on the accompanying bid sheet(s). By signing below, Bidder has read the entire document and agreed to the terms therein.

Signer's Name: A Glen Angelle Firm Name: Philpott Motors
(Please Print or Type)

Signature of Person Authorized to Sign Bid

Address: 1400 Hwy 69
City, State, Zip Code: Nederland TX 77457

Email Address: glen.angelle@philpottmotors.com Telephone No.: 409-727-3564
Fax No.: 409-724-0886

Please complete the following:
Prompt Payment Discount: 10% days. (If no discount is offered, Net 30 will apply.)

Please check the following blanks which apply to your company:

Ownership of firm (51% or more):
[checked] Non-minority ___ Hispanic ___ African-American ___ Other Minority (specify)
___ Female Owned ___ Handicapped Owned ___ Small Business (less than \$1 million annual receipts or 100 employees)
Indicate Status: ___ Partnership ___ Corporation ___ Sole Proprietorship ___ Other (specify)
Tax Identification Number: _____

FOR CITY USE ONLY AWARD
Items Accepted: Ordinance No: Date: Amount:
Approved: CITY OF SAN ANTONIO

TERMS AND CONDITIONS OF INVITATION FOR BIDS

READ CAREFULLY

1. GENERAL CONDITIONS

Bidders (hereinafter "bidders", "vendors" or "contractors") are required to submit their bids upon the following expressed conditions:

- (a) Bidders shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.
- (b) Bidders shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the bid conditions. No plea of ignorance by the bidder of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the bidder to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.
- (c) Bidders are advised that all City contracts are subject to all legal requirements provided for in the City Charter and/or applicable City Ordinances, state and federal statutes. Any bid, after being opened, becomes subject to the Public Information Act, Government Code Chapter 552; therefore bidders must clearly indicate any portion of the submitted bid that the bidder claims is not subject to public inspection under the Public Information Act.
- (d) No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City of any materials, supplies or services, except on behalf of the City as an officer or employee. This prohibition extends to the City Public Service Board, San Antonio Water System, and all City boards and commissions other than those which are purely advisory. In this instance a City employee is defined as any employee of the City who is required to file a financial involvement report pursuant to the City's ethics ordinance.

2. PREPARATION OF BIDS

Bids will be prepared in accordance with the following:

- (a) All information required by the bid form shall be furnished or the bid may be deemed non responsive. The bidder shall print or type name and manually sign the schedule.
- (b) Where there is an error in extension of price, the unit price shall govern. Any bid that is considered for award by each unit or line item, must include a price for each unit or line item for which the bidder wishes to be considered. Any ambiguity in the bid as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of the City.

Any bid that is considered for award on an "all or none" basis must include a price quote for all units or line items. In an "All or None" bid, a unit price left blank shall be tabulated as a "zero", and shall be deemed to be offered at no cost to the City.
- (c) Alternate bids may be allowed at the sole discretion of the City.
- (d) Proposed delivery time must be shown and shall include weekends and holidays, unless specified otherwise in this IFB.
- (e) Bidders will neither include federal taxes nor State of Texas limited sales excise and use taxes in bid prices since the City of San Antonio is exempt from payment of such taxes. An exemption certificate will be signed by City where applicable upon request by bidder.

3. DESCRIPTION OF SUPPLIES

Any catalog or manufacturer's reference used in describing an item is merely descriptive, and not restrictive, unless otherwise noted, and is used only to indicate type and quality of material. Each bid must clearly identify the proposed product, the quantity of the product, model, and type, as applicable. Prorata adjustments to packaging and pricing may be allowed at the sole discretion of the City.

4. ASSURANCE OF COMPLIANCE - EQUAL EMPLOYMENT OPPORTUNITY AND SMALL BUSINESS ECONOMIC DEVELOPMENT (SBEDA) PROGRAM

It is the policy of the City of San Antonio that Small, Minority, African-American and Women Business Enterprises shall have the maximum practicable opportunity to participate in the performance of public contracts. Bidder agrees that if this bid is accepted, he/she will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age, handicap or political belief or affiliation. In addition, bidder agrees, by submittal of this bid, that he/she will abide by all applicable terms and provisions of this Nondiscrimination Clause and the Small Business Economic Development Advocacy (SBEDA) Program Policy Ordinance. This clause and policy are available in the City Clerk's Office and the City's Economic Development Department.

5. SAMPLES, DEMONSTRATIONS AND TESTING

At the City's request and direction, bidder shall provide product samples and/or testing of items bid to ensure compliance with specifications. Samples, demonstrations and/or testing may be requested prior to award of the contract, upon delivery and/or at any point during the term of resulting contract. After notification, samples, demonstrations and/or testing must be provided within **ten** days. Failure to provide samples prior to award of contract will disqualify bidder from consideration. All samples (including return thereof), demonstrations and/or testing shall be at the expense of the bidder. Samples will be returned upon request; otherwise, samples will become property of the City of San Antonio, **ten** days after award of the contract.

6. SUBMISSION OF BIDS

- (a) **Sealed bids in triplicate** shall be enclosed in sealed envelopes addressed to the City Clerk, City of San Antonio. The name and address of bidder, the date and hour of the bid opening, bid number and title of the bid solicitation shall be marked on the outside of the envelope(s).
- (b) Bids must be submitted on the forms furnished. Bids, however, may be modified provided such modifications are sealed and received by the City Clerk prior to the time and date set for the bid opening. However, the City of San Antonio shall not be responsible for lost or misdirected bids or modifications.
- (c) By submittal of this bid, bidder certifies to the best of his/her knowledge that all information is true and correct.

7. REJECTION OF BIDS

- (a) The City may reject a bid if:
 - 1. The bidder misstates or conceals any material fact in the bid; or
 - 2. The bid does not strictly conform to law or the requirements of the bid;
 - 3. The bid is conditional, except that the bidder may qualify the bid for acceptance by the City on an "All or None" basis or a "Best Value Item" basis. An "All or None" basis bid must include all items upon which bids are invited.

- (b) In the event that a bidder is or subsequently becomes delinquent in the payment of his, her or its City taxes, including state and local sales taxes, such fact shall constitute grounds for rejection of the bid, or if awarded the bid, for cancellation of the contract. However, the City reserves the right to deduct any delinquent taxes from payments that the City may owe to the delinquent bidder as a result of such contract.
- (c) The City may, reject all bids whenever it is deemed in the best interest of the City to do so, and may reject any part of a bid unless the bid has been qualified as provided in Par. 7 (a) 3 above. The City at its sole discretion may also waive any minor informalities or irregularities in any bid, to include failure to submit sufficient bid copies, failure to submit literature or similar attachments, or business affiliation information.

8. WITHDRAWAL OF BIDS

Bids may not be withdrawn after the time set for the bid opening, unless approved by the City Council.

9. LATE BIDS OR MODIFICATIONS

Bids and modifications received after the time set for the bid opening will not be considered.

10. CLARIFICATION TO BID SPECIFICATIONS

- (a) If any person contemplating submitting a bid for this contract is in doubt as to the true meaning of the specifications, other bid documents, or any part thereof, he/she may submit to the City Director of Purchasing and General Services, (Director) on or before seven calendar days prior to scheduled opening, a request for clarification. All such requests for information shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the bid, if made, will be made only by Addendum duly issued. A copy of such Addendum will be posted to the City's website at <http://epay.sanantonio.gov/RFPListings/>. It is the responsibility of a bidder to review this site and ascertain whether any amendments have been made prior to submission of a bid. The City will not be responsible for any other explanation or interpretation of the proposed bid made or given prior to the award of the contract. Any objections to the specifications and requirements as set forth in this bid must be filed in writing with the Director on or before seven calendar days prior to the scheduled opening.
- (b) The City reserves the right to request clarification to assist in evaluating the bidder's response when the bid response is unclear with respect to product pricing, packaging or other factors. The information provided is not intended to change the bid response in any fashion and such information must be provided within two days from request.

11. INVOICING, PAYMENT AND DISCOUNTS

- (a) Address for Invoices. All invoices must be sent to: City of San Antonio, Attn: Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.
- (b) Information Required On Invoice.

All invoices must be in a form and content approved by the City. City may require modification of invoices if necessary in order to satisfy City that all billing is proper and pursuant to the terms of the contract. Invoices are required to show each City Purchase Order Number. Invoices must be legible. Items billed on invoices must be specific as to applicable stock, manufacturer, catalog or part number (if any). All invoices must show unit prices for each item being billed, the quantity of items being billed and the total for each item, as well as the total for all items on the invoice. If prices are based on list prices basis, then the list prices, the percentage discount or percentage surcharge, net unit prices, extensions and net total prices must be shown. Prompt payment discounts offered shall be shown separately on the invoice.

- (c) Payment by City. City shall have not less than 30 days to pay for goods or services. Time for payment, including payment under discount terms, will be computed from the later of: (1) the date the City receives conforming goods under the contract; (2) the date performance of the service under the contract is completed;

or (3) the date the City receives a correct and valid invoice for the goods or services. Payment is deemed to be made on the date of mailing of the check. Payment is made in US dollars only.

This provision shall not apply where there is a bona fide dispute between the City and Vendor about the goods delivered or the service performed that causes the payment to be late, or where the invoice is not mailed to the address provided herein.

The payment amount due on invoices may not be manually altered by City personnel. Once disputed items are reconciled, Vendor must submit a corrected invoice, or a credit memorandum for the disputed amount, or the item must be issued by the vendor. City will not make partial payments on an invoice where there is a dispute.

- (d) **NECESSITY OF TIMELY INVOICE / WAIVER OF PAYMENT.** NOTWITHSTANDING THE FORGOING, THE CITY CANNOT PAY FOR ANY GOODS OR SERVICES WITHOUT AN INVOICE. VENDOR MUST INVOICE CITY NO LATER THAN 90 CALENDAR DAYS FROM THE DATE GOODS ARE DELIVERED OR SERVICES RENDERED. FAILURE TO SUBMIT AN INVOICE WITHIN SAID 90 DAY SHALL NEGATE ANY LIABILITY ON THE PART OF CITY AND CONSTITUTE A WAIVER BY VENDOR OF ANY AND ALL RIGHT OR CLAIMS TO COLLECT MONEYS THAT VENDOR MAY RIGHTFULLY BE OTHERWISE ENTITLED TO FOR GOODS OR SERVICES PERFORMED.
- (e) The total price for all goods and/or services is shown on the Price Schedule. No additional fees or expenses of Vendor shall be charged by Vendor nor be payable by City. The parties hereby agree that all compensable expenses of Vendor are shown on the Price Schedule. If there is a discrepancy on the Price Schedule between the unit price for an item, and the extended price, the unit price shall govern.
- (f) Tax Exemption. The City of San Antonio is exempt from payment of federal taxes, and State of Texas limited sales excise and use taxes. Bidders must not include such taxes in bid prices. An exemption certificate will be signed by City where applicable upon request by bidder after contract award.
- (g) Prompt Payment Discount. Provided Bidder meets the requirements stated herein, City shall take Bidder's offered prompt payment discount into consideration in determining who the low bidder is. The evaluation will not be based on the discount percentage alone, but rather the net price as determined by applying the discount to the bid price, either per line item or total bid amount. However, the City reserves the right to reject a discount if the percentage is too low to be of value to the City, all things considered. The City may also reject a discount if the percentage is so high as to create an overly large disparity between the price City would pay if it is able to take advantage of the discount and the price City would pay if it were unable to pay within the discount period. City may always reject the discount and pay within the 30 day period, at City's sole option.

The City will not consider discounts that provide fewer than 10 days to pay in order to receive the discount.

For example, payment terms of 2% 5, Net 30 will NOT be considered in bid evaluations or in the payment of invoices. However, payment terms of 2% 10, Net 30 will result in a two percent reduction in the bid price during bid evaluation, and the City will take the 2% discount if the invoice is paid within the 10 day time period.

12. AWARD OF CONTRACT

- (a) Per Section § 252.043 of the Texas Local Government Code, the contract will be awarded to the lowest responsible bidder.
- (b) 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, in accordance with Par.7 (a) 3 above.
- (c) 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.
- (d) The City of San Antonio reserves the right to utilize previous purchases as a basis for evaluation of bids when future usages are unable to be determined.

- (e) Breaking of tie bids shall be in accordance with the Texas Local Government Code § 271.901.
- (f) 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.

13. BID PROTEST PROCEDURES

Any bidder who is adversely affected in connection with the solicitation, evaluation, or proposed award of a contract may file a protest with the Director of Purchasing & General Services and appeal any adverse decision to the City Manager of the City of San Antonio.

Vendor must deliver a written notice of protest to the Purchasing & General Services Director within seven (7) calendar days of the posting of the intent to award. If vendor does not file a written notice within this time; the vendor will have waived all rights to formally protest the intent to award. It is the vendor's responsibility to check the City's website posting.

14. DEBRIEFING

Debriefing of contract award is available upon request and after award of the Contract.

15. CONTRACT TERMINATION

TERMINATION-BREACH:

- (a) Should vendor fail to fulfill in a timely and proper manner, as determined solely by the Director, its obligations under this contract, or violate any of the terms of this contract, the City shall have the right to immediately terminate the contract, in whole or in part. Notice of termination shall be provided in writing to the contractor, effective upon the date set forth in the notice. Such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor.

TERMINATION-NOTICE:

- (b) The City may terminate this contract, in whole or in part, without cause. The City shall be required to give the vendor notice ten days prior to the date of termination of the contract without cause.

TERMINATION-FUNDING:

- (c) City retains the right to terminate this contract, in whole or in part, at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

16. DELIVERY OF GOODS/SERVICES

- (a) All materials are to be delivered F.O.B., City of San Antonio's designated facility.

- (b) 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 the 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.
- (c) 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 Director. 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.
- (d) 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 & General Services Department.

17. PERFORMANCE DEPOSIT

- (a) The following provisions shall apply only when a performance deposit is specified as required in this Invitation for Bids.
- (b) The successful vendor must furnish the City of San Antonio with a performance deposit in the amount set forth in the Invitation For Bids. This deposit is not to be submitted with the bid, but must be presented to the Purchasing & General Services Department within **ten** days from request.
- (c) The City of San Antonio will not enter into a contract or issue a purchase order until the successful vendor has complied with the performance deposit provisions.
- (d) The performance deposit shall be in the form of a performance bond (in a form acceptable to the City Attorney), cashier's check, certified check upon a state or national bank or trust company, or a check on such bank or trust company signed by a duly authorized officer thereof (checks to be drawn payable to the City of San Antonio), or a Certificate of Deposit from such bank or trust company assigned to the City of San Antonio, or an irrevocable letter of credit from a state or national bank or trust company.
- (e) The performance deposit of the successful vendor shall be returned by the City upon completion of the contract and final acceptance of all items in accordance with conditions thereof.
- (f) Failure of successful vendor to perform any of the services required by this contract within **ten** days of receipt of written demand for performance from City, or failure of vendor to correct or replace defective goods or products within **ten** days from receipt of written demand therefore, shall constitute a total breach of this contract and shall cause this contract to terminate immediately upon the expiration of the ten day period. In the event of such termination, the performance deposit shall be retained by the City of San Antonio as liquidated damages, based upon mutual agreement and understanding between vendor and City at the time this bid is solicited, submitted and accepted, that the City of San Antonio is a governmental agency engaged in public projects, and that the measurement of damages, which might result from a breach of the terms and specifications herein is difficult or impossible to determine. However, the Director with the concurrence of the City Manager, may return all or part of the performance deposit to the vendor if the Director determines, in the Director's sole discretion, that the failure to perform the conditions of this contract was the result of acts or events over which the vendor had no control. The determination shall then be final and binding on all parties.

18. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful vendor as an 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.

19. BID RESULT REQUEST

Any party who wishes to be provided documents relating to the bid results shall make a request in writing. Pursuant to state law, the City may assess a fee in order to recoup the cost related to providing the requested information.

20. PATENTS/COPYRIGHTS

The successful vendor agrees to indemnify and hold the City harmless from any claim involving patent infringement or copyrights on goods supplied.

21. INDEMNIFICATION

BIDDER covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to BIDDER'S activities under this contract, including any acts or omissions of BIDDER, any agent, officer, director, representative, employee, consultant or subcontractor of BIDDER, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this contract. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT BIDDER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

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

22. INSURANCE

If required, specific insurance provisions will be included in these bid specifications. An original, completed insurance certificate and all applicable endorsements, meeting the requirements set forth in these specifications, must be submitted within 10 days of a request from the City. The successful vendor must maintain, at all times during performance of the contract, the insurance detailed in these bid specifications. Failure to provide these documents may result in disqualification of the bid, or cancellation of the contract, after award.

23. ACCEPTANCE BY CITY

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.

24. WARRANTY

The supplies or services furnished under this contract shall be covered by the most favorable commercial warranties given to any customer for same or similar supplies or services.

REJECTION OF DISCLAIMERS OF WARRANTIES & LIMITATIONS OF LIABILITY. ANY TERM OR CONDITION IN ANY DOCUMENT FURNISHED BY VENDOR, DISCLAIMING THE IMPLIED

WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR ATTEMPTING TO LIMIT VENDOR'S LIABILITY SHALL BE OF NO FORCE OR EFFECT, AND SHALL BE STRICKEN FROM THE CONTRACT DOCUMENTS AS IF NEVER CONTAINED THEREIN.

25. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders will be made in writing by the City of San Antonio Purchasing & General Services Department.

26. ASSIGNMENT

Except as otherwise stated herein, Vendor may not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of Director. As a condition of such consent, if such consent is granted, Vendor shall remain liable for completion of the services and provision of goods outlined in this contract in the event of default by the successor vendor, assignee, transferee or subcontractor. Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void and shall confer no rights upon any third person.

27. INTERLOCAL PARTICIPATION

- (a) 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.
- (b) In no event shall City be considered a dealer, remarketer, 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.
- (c) Entity purchase orders shall be submitted to Vendor by the Entity.
- (d) 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.

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.

28. QUESTIONS

Questions regarding interpretation of bids, bid results or bid awards should be directed to the Purchasing & General Services Department at (210) 207-7260.

SPECIFICATIONS AND GENERAL REQUIREMENTS

SCOPE: The City of San Antonio is soliciting bids to furnish Four Door Sedans, Compact Sized Gasoline/Electric Powered Hybrid in accordance with the specifications listed herein. These vehicles will be utilized by various departments including Code Compliance, Parks and Recreation, Health, Fire, Police, Public Works, Purchasing and General Services, and Solid Waste Management.

STANDARD REQUIREMENTS:

1. Prospective bidders must prove beyond any doubt to the City Purchasing Administrator that they are duly qualified, capable, bondable, etc. to fulfill and abide by the specifications herein listed.
2. When contractor cannot abide by terms and conditions in fulfilling the contract, contractor must supply service or supplies from other sources at the contract price. If contractor delays in the above, the City reserves the right to purchase on the open market and charge contractor the difference between contract price and the purchase price.
3. Bidders' facilities and equipment may be a determining factor in making the bid award. All bidders may be subject to inspection of their facilities and equipment.

GENERAL CONDITIONS: The following general conditions will apply to all items within this bid unless specifically excluded within any item:

- 1) Warranty and Parts Dealer and manufacturer must provide the maximum standard manufacturer's warranty on all components parts and service included. All components, parts and service are required to provide as a minimum one year unlimited mileage warranty. All warranty times to start the date the vehicle is placed in service, not on the delivery date. The dealer will be notified by letter of the in-service date of each vehicle by serial number. Warranty will be fully explained by attaching separate, authenticated correspondence or entering such information in the remarks section of this bid. Warranty, reliability, and replacement captive parts costs and availability shall be a consideration in award of this bid. Warranty parts and service must be available within Bexar County or within a ten (10) mile radius of Bexar County from and by a factory-authorized dealer (**NO EXCEPTIONS**). All warranty repairs will be completed within three (3) days from the date equipment is delivered to the vendor unless otherwise approved by the appropriate City of San Antonio maintenance superintendent. Bidders will certify that all repairs needed after the warranty period will be available within a ten (10) mile radius of Bexar County.

Warranty Service Provider: Red McCombs Toyota

Address of Warranty Facility: San Antonio TX

- 2) **Delivery - All deliveries are to be made inside the City limits of San Antonio. Vendor must deliver equipment to Brooks City Base, 8220 Lindbergh Landing, Building 1106, San Antonio, TX 78235. Delivery to a non-specified location will result in non-acceptance of the equipment by the City. All deliveries must be pre-arranged with a minimum 24-hour notification, NO EXCEPTIONS. Contact Fleet Acquisitions Manager @ (210) 207-7850 for delivery questions. Vehicles with more than 50 miles accumulated on the odometer will not be accepted. All vehicles are required to have a full tank of fuel.**
- 3) All prices will be quoted F.O.B., designated City facility, freight prepaid. All bids will be submitted in triplicate and will include complete manufacturer's specifications for each model being bid. City of San

Antonio reserves the right to increase or decrease quantity of units being purchased through December 31, 2011, depending on availability of funds. Prices may not be increased during this period; however, the City should benefit from any price decrease. Additional units may be purchased on an "as needed" basis. Bidder is required to provide all production "cut-off" dates necessary for order submission in their bid response.

- 4) All components shall be installed new, unused, standard production model, and equipment is to be serviced in accordance with manufacturer's recommended pre-delivery check list, and ready for operation upon delivery, and shall include all manufacturers' standard equipment unless otherwise specified or replaced therein. Manufacturer's Statement of Origin (MSO) and completed pre-delivery checklist will be required at delivery. Equipment offered under the below listed specifications will be considered unacceptable if for any reason its long term availability on the U.S. Market or in the local area is in doubt. All sedans will be 2011 or newer production model year.
- 5) All accessories and equipment will be OEM. The manufacturer will rate all equipment provided as low emission.
- 6) Owners/Service Manuals – An operator's manual per unit, to include five (5) parts and maintenance manuals or CD ROMs per model of all equipment, accessories, and components will be required.
- 7) All units to be equipped with safety equipment as required by the Federal Government.
- 8) **All units to be equipped at the factory with air conditioning, full headliner, fresh air heater and defroster units, power windows and power locks, OEM AM/ FM radio.**
- 9) Electrical – Heavy duty battery and alternator offered by manufacturer for models being bid. All units to be equipped with oil pressure, water temperature, and volt or amp gauges.
- 10) Standard factory spare. Tires still under evaluation will not be acceptable.
- 11) **A pre-bid conference will be held at the Fleet Maintenance and Operations Training Room, 329 S. Frio, San Antonio, TX 78207 at 10:00 AM. Local Time on Tuesday, November 30, 2010.**
- 12) The City reserves the right to reject any bids and to waive irregularities and any requirements of the bid if deemed to be in the best interest of the City.
- 13) The City reserves the right to make an award on the basis of low line item, low total of line items, or in any other combination that serves the best interest of the City and to reject any and all bid items at the City's sole discretion. For the purpose of evaluation, items left blank will be deemed "**no bid**".
- 14) **ADDITIONAL INFORMATION:**
For questions regarding this bid solicitation, contact Dena Guevara, Procurement Specialist at (210) 207-4046. Questions may also be submitted in writing via FAX, (210) 207-7814, or via email at dena.guevara@sanantonio.gov

ITEM	QUANTITY	DESCRIPTION
1	87	Four Door Sedans, Compact Sized Gasoline/Electric Powered Hybrid

SPECIFICATIONS:

1. OEM heater, windshield defroster, rear window defroster, A/C. (See General Conditions, Paragraph 8.)
2. Multi-speed front electric windshield wipers and intermittent rear window wiper.
3. Engine to be of Hybrid design, gasoline-electric.
4. Advanced Technology Partial Zero Emission Vehicle (AT-PZEV).
5. Minimum 134 HP Rating.
6. Minimum 1.8 liter engine.
7. Four valves per cylinder with Variable Valve Timing with intelligence (VVT).
8. Sequential multi-point EFI with Electronic Throttle Control System with intelligence (**ETCS-i**).
9. Left and right door arm rests.
10. Automatic transmission, continuously variable shift (CVT).
11. Vehicles to be equipped with tinted glass and State Inspection Sticker.
12. Power steering, with external cooler.
13. Electronic cruise-control.
14. Power brakes, minimum front disc, rear drum type ABS.
15. Rear open area tonneau cover.
16. Standard production colors to be selected from successful bidders' color charts.
17. Seats to be cloth or fabric.
18. Dual outside mirrors.
19. Must achieve a minimum EPA Mileage Estimate of 50 miles per gallon for combined City/Highway driving.
20. Instrument package to include water temperature, oil pressure, and volt or ammeter gauges.
21. Acceptable Model is 2011 model year or newer.

PRICE SCHEDULE

ITEM	QUANTITY	DESCRIPTION
1	87	Four Door Sedans, Compact Sized, Gasoline/Electric Powered Hybrid

PRICE: \$ 20896.00 EACH \$ 1,817,952.00 TOTAL

MAKE, MODEL, & MODEL NUMBER: 2011 Toyota Prius model (1223)

WARRANTY MILES: 36,000 MONTHS 36
Batteries 80,000 8yrs

DELIVERY: Delivery will be made within 120 calendar days after issuance of purchase orders.

INDICATE THE LAST DAY THAT THE CITY CAN PLACE ORDERS UNDER THIS CONTRACT WITHOUT MISSING THE PRODUCTION CUT OFF DATE: May 2011 BID PRICES SHALL REMAIN FIRM FOR ALL ORDERS PLACED PRIOR TO THIS CUT OFF DATE.

BIDDER ACCOUNT REPRESENTATIVE:

Vendor shall list the account representative information servicing the City's account if awarded this contract.

Name: A. Glen Angelle
Title: Sales Assoc.
Phone: 409 - 727 - 3564
Fax: 409 - 724 - 0886
Email: glen.angelle@philpottmotors.com

Statement:

“Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at <http://www.ethics.state.tx.us/forms/CIQ.pdf>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk. If mailing a completed conflict of interest questionnaire, mail to: Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. If delivering a completed conflict of interest questionnaire, deliver to: Office of the City Clerk, City Hall, 2nd floor, 100 Military Plaza, San Antonio, TX 78205.”

IMPORTANT MAILING INSTRUCTIONS:

Note to bidders:

Visitors to City Hall are required to enter through the east side of the building. The public will pass through a metal detector and x-ray machine located in the lobby. All packages, purses and carried items will be scanned during regular business hours of 7 a.m. to 7 p.m. After the public proceeds through the metal detector, they will sign in and receive a visitor's badge. For those that might require the use of a ramp, entry is available on the south side of the building (Dolorosa side). Security will meet the visitor in the basement with a hand scanner.

Bidders are advised that this is one of several forthcoming measures to increase security of City Hall. Please anticipate these changes and allow ample time for delivery of sealed bids.

The City is NOT responsible for late delivery of sealed bids.

MAIL TO: CITY CLERK
P.O. BOX 839966
SAN ANTONIO, TX 78283-3966

PHYSICAL ADDRESS: CITY CLERK
CITY HALL (COMMERCE ST. & FLORES ST.)
100 MILITARY PLAZA, 2ND FLOOR
SAN ANTONIO, TEXAS 78205

MARK ENVELOPE: "CONTRACT FOR ADMIN SEDANS"
BIDS TO BE OPENED: 2:00 P.M., December 13, 2010.
BID NO. 11-031 DDG

REMARKS:

City Of San Antonio Bid Tabulation

Opened: December 13, 2010						
For: Gasoline/Electric Powered Hybrid Sedans						
11-031			DDG	Philpott Motors	Caldwell Country Chevrolet	Caldwell Country Ford
			1400 Hwy 69	PO Box 27	PO Box 27	
			Nederland,	Caldwell,	Caldwell,	
			TX 77627	TX 77836	TX 77836	
			409-727-3564			
Item	Description	Qty				
1	Four Door Sedans, Compact Sized, Gasoline/Electric Powered Hybrid Make, Model, & Model Number	80	\$20,896.00	\$39,776.00	\$27,740.00	
			2011 Toyota Prius	Chevrolet Volt 1RC68	Ford Fushion Hybrid	
			Model 1223			
	Warranty Miles		36,000	100,000	36,000	
	Warranty Months		36 Months	60 Months	36 Months	
	Price Total:		\$1,671,680.00	\$3,182,080.00	\$2,219,200.00	
	Production Cut Off Date:		May 31, 2011	December 31, 2012	December 31, 2011	
	Delivery:		120 Days	120 Days	120 Days	
	Payment Terms:		Net 30	Net 30	Net 30	
	Total		\$1,671,680.00	\$3,182,080.00	\$2,219,200.00	
	Total Award		\$1,671,680.00			

City Of San Antonio Bid Tabulation

Opened: December 13, 2010			
For: Gasoline/Electric Powered Hybrid Sedans			
11-031		DDG	Fort Bend Toyota
			20465 Southwest Freeway
			Richmond, TX 77469
Item	Description	Qty	
1	Four Door Sedans, Compact Sized, Gasoline/Electric Powered Hybrid Make, Model, & Model Number	80	\$22,905.13 2011 Toyota Prius II
	Warranty Miles		36,000
	Warranty Months		36 Months
	Price Total:		\$1,832,410.40
	Production Cut Off Date		March 31, 2011
	Delivery:		30 Days
	Payment Terms:		Net 30
	Total		\$1,832,410.40
	Total Award		