

REQUEST FOR VENDOR QUOTES
FOR
CITY OF SAN BERNARDINO
FOR
PAINT SUPPLIES AND RELATED MATERIALS



CITY OF SAN BERNARDINO
290 North D Street
San Bernardino, California 92401

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<https://www.ci.san-bernardino.ca.us/>

REQUEST FOR VENDOR PRICE QUOTES
PROJECT NO. RFQ F-23-48

PAINT SUPPLIES AND RELATED MATERIALS

PUBLIC NOTICE IS HEREBY GIVEN that vendor price quotes ("Quotes") will be received by the City of San Bernardino ("City") electronically through the City's online bid management provider ("PlanetBids"), until **3:00 PM, Thursday, June 29, 2023**. Quotes may **NOT** be submitted by fax, email, telephone, mail, hand delivery, or other means; any Quotes received through any means other than PlanetBids will be returned to the Vendor unopened.

The award of this contract is subject to available budget adequate to carry out the provisions of the proposed agreement including the identified scope of work. The City reserves the right to reject any or all Quotes.

The City is committed to inclusion and diversity and welcomes proposals and bids from contractors, consultants, and vendors of all faiths, creeds, ancestries, and ethnicities without regard to disability, gender identity, sexual orientation, or immigration status. The City condemns and will not tolerate prejudice, racism, bigotry, hatred, bullying, or violence towards any group within or outside of our community.

I. REQUEST FOR QUOTES

The City is requesting Quotes from qualified vendors¹ ("Vendors") for Paint Supplies and Related Materials ("Project/Equipment"). To serve and promote the welfare of its residents, the City intends to procure the Project/Equipment, as described below.

PAINT SUPPLIES AND RELATED MATERIALS

A. Scope of Work/Services

The Project/Equipment sought under this request are set forth in more detail in **Attachment "A"**, attached hereto and incorporated herein by this reference. Notwithstanding the inclusion of such Project/Equipment in **Attachment "A"**, the final scope of Project/Equipment negotiated between City and the successful Vendor shall be set forth in the **Goods Purchase Agreement** ("Agreement") executed by and between City and the successful Vendor. A copy of the Agreement is attached hereto as **Attachment "B"** and incorporated herein by this reference.

B. Project Manager

The Project Manager for the City regarding this request will be **Mayra Calderon, Buyer, Purchasing Department, purchasing@sbccity.org** or a designated representative, who will coordinate the assistance to be provided by the City to the Vendor.

C. Requests for Clarification

All questions, requests for interpretations or clarifications, either administrative or technical, must be requested in writing and will be answered in writing through PlanetBids. To ensure a response, questions must be received in writing no later than **June 14, 2023, by 3:00 PM** by local time.

D. Meeting

For this request, there is no meeting

E. Site Examination

Vendors may visit the City and its physical facilities to determine the local conditions which may in any way

¹Use of the term "Vendor(s)" shall mean individual proprietorship, partnership, Limited Liability Company, corporation or joint venture.

affect the performance of the work; shall familiarize themselves with all federal, state and local laws, ordinances, rules, regulations, and codes affecting the performance of the Project/Equipment; make such investigations, as it may deem necessary for performance of the Project/Equipment at its Quote within the terms of the Agreement; and correlate its observations, investigations, and determinations with the requirements of the Agreement.

F. Submittal Requirements of Vendor Price Quote

The Quote must be received no later than **3:00pm** local time, on or before **June 29, 2023**, through PlanetBids. It is solely the responsibility of Vendor to see that its Quote is properly submitted to PlanetBids in proper form and prior to the stated closing time. PlanetBids will not accept late Quotes. The City will only consider Quotes that have transmitted successfully and have been issued a confirmation number with a time stamp from PlanetBids indicating that the Quote was submitted successfully.

Vendors experiencing any technical difficulties with the Quote submission process may contact PlanetBids Support at (818) 992-1771. Neither the City nor PlanetBids make any guarantee as to the timely availability of assistance or assurance that any given problem will be resolved by the Quote submission date and/or time.

Vendors to provide a Quote for the scope of Project/Equipment as set forth in in the Vendor Quote Form attached hereto as **Attachment “C”** and incorporated herein by this reference. Vendors submitting a Quote agree to furnish services to the City in accordance with the Quote submitted, and to be bound by the terms and conditions of this Request for Vendor Price Quote. Vendor is certifying that it takes no exceptions to the request, including but not limited to, the Agreement.

G. Selection Process

The City will evaluate and award to the responsible Vendor offering the needed quality of supply or work or service at the lowest quotation or determined to be in the best interest of the City. During the evaluation process, the City reserves the right to request additional information or clarifications from Vendors, or to allow corrections of errors or omissions.

H. General Conditions

1. General: It is solely the responsibility of the Vendor to see that its Quote is properly submitted to PlanetBids in proper form and prior to the stated closing time. PlanetBids will not accept late Quotes.

2. Amendments to Request: The City reserves the right to amend the request or issue to all Vendors addenda to answer questions for clarification.

3. Non-Responsive Quotes: A Quote may be considered non-responsive if conditional or incomplete.

4. Costs for Preparing: The City will not compensate any Vendor for the cost of preparing any Quote, and all materials submitted with a Quote shall become the property of the City. The City will retain all Quotes submitted and may use any idea in a Quote regardless of whether that Quote is selected.

5. Price Validity: Quotes provided by Proposers in response to this request are valid for **180** days from the due date. The City intends to award the Agreement within this time but may request an extension from the Vendors to hold pricing, until negotiations are complete, and the Agreement is awarded.

6. Availability to Perform Work: Vendor must be available to begin Project/Equipment within **14** working days of the contract being awarded and must complete all Project/Equipment within **180** “working” or “calendar” days.

7. Additional Costs to Perform Work/Services: The Vendor’s Quote is inclusive of all costs and applicable taxes. Vendor is responsible for all building permit fees, applicable renderings, plans, documentation, and fees required by the Agreement. Vendor will be required to maintain at its own cost the necessary insurance as required by the Agreement and a City business license.

8. Vendor License: Pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, all Vendors must possess proper licenses for performance of this Agreement.

[END OF SECTION]

ATTACHMENT “A”

PAINT SUPPLIES AND RELATED MATERIALS

The Vendor will furnish all materials, renderings, equipment, tools, removal, installation, labor, coordination, permits, supervision, freight, and incidentals (including tax) as necessary to perform and complete the project pursuant to the Request for Vendor Quotes and the Agreement. The following is a non-inclusive description of the project work and/or goods to be provided.

The City of San Bernardino is seeking bids for the purchase of paint and related supplies for our graffiti abatement program. **Items descriptions and unit (annual) quantities are described in the Unit Price Sheet table; however, the following specifications are also required (as applicable):**

- Paint must be ready to pick up no longer than 5 days after the order is placed (notwithstanding national supply-chain issues).
- All paint must be lead-free and compliant with State of California regulations. Please refer to <https://www.calrecycle.ca.gov/Paint/MfrBrands/> for additional information. The vendor (or manufacturer) must maintain compliance with any upcoming laws or regulations—this includes disposal and recycling.
- It is strongly desired that paints are bio-based/ecologically friendly (as is becoming more common) with no formaldehydes or ammonia.

ATTACHMENT "B"

CITY OF SAN BERNARDINO
GOODS PURCHASE AGREEMENT

This Goods Purchase Agreement ("Agreement") is entered into this *****INSERT DAY***** day of *****INSERT MONTH*****, 2021, by and between the City of San Bernardino, a charter city and municipal corporation organized under the laws of the State of California with its principal place of business at Vanir Tower, 290 North D Street, San Bernardino, California 92401, County of San Bernardino, State of California ("City"), and *****INSERT NAME*****, a *****INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY***** with its principal place of business at *****INSERT ADDRESS***** ("Supplier"). City and Supplier are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

Section 1. DEFINITIONS.

A. "Goods" means all machinery, equipment, supplies, items, parts, materials, labor or other services, including design, engineering and installation services, provided by Supplier as specified in Exhibit "A," attached hereto and incorporated herein by reference.

B. "Delivery Date(s)" means that date or dates upon which the Goods is to be delivered to City, ready for approval, testing and/or use as specified in Exhibit "B."

Section 2. MATERIALS AND WORKMANSHIP.

When Exhibit "A" specifies machinery, equipment or material by manufacturer, model or trade name, no substitution will be made without City's written approval. Machinery, equipment or material installed in the Goods without the approval required by this Section 2 will be deemed to be defective material for purposes of Section 4. Where machinery, equipment or materials are referred to in Exhibit "A" as equal to any particular standard, City will decide the question of equality. When requested by City, Supplier will furnish City with the name of the manufacturer, the performance capabilities and other pertinent information necessary to properly determine the quality and suitability of any machines, equipment and material to be incorporated in the Goods. Material samples will be submitted at City's request.

Section 3. INSPECTIONS AND TESTS.

City shall have the right to inspect and/or test the Goods prior to acceptance. If upon inspection or testing the Goods or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in Exhibit "A," then without prejudice to any other rights or remedies, City may reject the Goods or exercise any of its rights under Section 4.C. The inspection, failure to make inspection, acceptance of goods, or payment for goods shall not impair City's right to reject nonconforming goods, irrespective of City's failure to notify Supplier of a rejection of nonconforming goods or revocation of acceptance thereof or to specify with particularity any defect in nonconforming goods after rejection or acceptance thereof.

Section 4. WARRANTY.

A. Supplier warrants that the Goods will be of merchantable quality and free from defects in design, engineering, material, and workmanship for a period of two (2) years, or such longer period as provided by a manufacturer's warranty or as agreed to by Supplier and City, from the date of final written acceptance of the Goods by City as required for final payment under Section 7. Supplier further warrants that any services provided in connection with the Goods will be performed in a professional and workmanlike manner and in accordance with the highest industry standards.

B. Supplier further warrants that all machinery, equipment, or process included in the Goods will meet the performance requirements and specifications specified in Exhibit "A" and shall be fit for the purpose intended. City's inspection, testing, approval, or acceptance of any such machinery, equipment, or process will not relieve Supplier of its obligations under this Section 4.B.

C. For any breach of the warranties contained in Section 4.A and Section 4.B, Supplier will, immediately after receiving notice from City, at the option of City, and at Supplier's own expense and without cost to City:

1. Repair the defective Goods;
2. Replace the defective Goods with conforming Goods, F.O.B. City's plant, office or other location of City where the Goods was originally performed or delivered; or
3. Repay to City the purchase price of the defective Goods.

If City selects repair or replacement, any defects will be remedied without cost to City, including but not limited to, the costs of removal, repair, and replacement of the defective Goods, and reinstallation of new Goods. All such defective Goods that is so remedied will be similarly warranted as stated above. In addition, Supplier will repair or replace other items of the Goods which may have been damaged by such defects or the repairing of the same, all at its own expense and without cost to City.

D. Supplier also warrants that the Goods is free and clear of all liens and encumbrances whatsoever, that Supplier has a good and marketable title to same, and that Supplier owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Supplier agrees to indemnify, defend, and hold City harmless against any and all third party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

E. In the event of a breach by Supplier of its obligations under this Section 4, City will not be limited to the remedies set forth in this Section 4, but will have all the rights and remedies permitted by applicable law, including without limitation, all of the rights and remedies afforded to City under the California Commercial Code.

Section 5. PRICES.

Unless expressly provided otherwise, all prices and fees specified in Exhibit "C," attached hereto and incorporated herein by reference, are firm and shall not be subject to change without the written approval of City. No extra charges of any kind will be allowed unless specifically agreed to in writing by City's authorized representative. The total price shall include (i) all federal, state and local sales, use, excise, privilege, payroll, occupational and other taxes applicable to the Goods furnished

to City hereunder; and (ii) all charges for packing, freight and transportation to destination.

Section 6. CHANGES.

City, at any time, by a written order, and without notice to any surety, may make changes in the Goods, including but not limited to, City's requirements and specifications. If such changes affect the cost of the Goods or time required for its performance, an equitable adjustment will be made in the price or time for performance or both. Any change in the price necessitated by such change will be agreed upon between City and Supplier and such change will be authorized by a change order document signed by City and accepted by Supplier.

Section 7. PAYMENTS.

A. Terms of payment, are net thirty (30) days, less any applicable retention, after receipt of invoice, or completion of applicable Progress Milestones. Final payment shall be made by City after Supplier has satisfied all contractual requirements. Payment of invoices shall not constitute acceptance of Goods.

B. If Progress Milestones have been specified in Exhibit "B," then payments for the Goods will be made as the requirements of such Progress Milestones are met. Progress payments for the Goods will be made by City upon proper application by Supplier during the progress of the Goods and according to the terms of payment as specified in Exhibit "B." Supplier's progress billing invoice will include progress payments due for the original scope of work and changes. Each "Item for Payment" shown in Exhibit "B" and each change order will be itemized on the invoice. Invoices for cost plus work, whether part of Exhibit "B" or a change order, must have subcontractor and/or supplier invoices attached to Supplier's invoice. Other format and support documents for invoices will be determined by City in advance of the first invoice cycle.

C. Payments otherwise due may be withheld by City on account of defective Goods not remedied, liens or other claims filed, reasonable evidence indicating probable filing of liens or other claims, failure of Supplier to make payments properly to its subcontractors or for material or labor, the failure of Supplier to perform any of its other obligations under the Agreement, or to protect City against any liability arising out of Supplier's failure to pay or discharge taxes or other obligations. If the causes for which payment is withheld are removed, the withheld payments will be made promptly. If the said causes are not removed within a reasonable period after written notice, City may remove them at Supplier's expense.

D. Payment of the final Progress Milestone payment or any retention will be made by City upon:

1. Submission of an invoice for satisfactory completion of the requirements of a Progress Milestone as defined in Exhibit "B" and in the amount associated with the Progress Milestone;
2. Written acceptance of the Goods by City;
3. Delivery of all drawings and specifications, if required by City;
4. Delivery of executed full releases of any and all liens arising out of this Agreement; and

5. Delivery of an affidavit listing all persons who might otherwise be entitled to file, claim, or maintain a lien of any kind or character, and containing an averment that all of the said persons have been paid in full.

If any person refuses to furnish an actual release or receipt in full, Supplier may furnish a bond satisfactory to City to indemnify City against any claim or lien at no cost to City.

E. Acceptance by Supplier of payment of the final Progress Milestone payment pursuant to Section 7.D will constitute a waiver, release and discharge of any and all claims and demands of any kind or character which Supplier then has, or can subsequently acquire against City, its successors and assigns, for or on account of any matter or thing arising out of, or in any manner connected with, the performance of this Agreement. However, payment for the final Progress Milestone by City will not constitute a waiver, release or discharge of any claims or demands which City then has, or can subsequently acquire, against Supplier, its successors and assigns, for or on account of any matter or thing arising out of, or in any manner connected with, the performance of this Agreement.

Section 8. SCHEDULE FOR DELIVERY.

A. The time of Supplier's performance is of the essence for this Agreement. The Goods will be delivered in accordance with the schedule set forth in Exhibit "B." Supplier must immediately notify City in writing any time delivery is behind schedule or may not be completed on schedule. In addition to any other rights City may have under this Agreement or at law, Supplier shall pay City the sum of \$[***INSERT AMOUNT***] per item of Goods for each calendar day for which the item of Goods is unavailable beyond the scheduled delivery date(s) specified in Exhibit "B."

B. In the event that the Goods is part of a larger project or projects that require the coordination of multiple contractors or suppliers, then Supplier will fully cooperate in scheduling the delivery so that City can maximize the efficient completion of such project(s).

Section 9. TAXES.

A. Supplier agrees to timely pay all sales and use tax (including any value added or gross receipts tax imposed similar to a sales and use tax) imposed by any federal, state or local taxing authority on the ultimate purchase price of the Goods provided under this Agreement.

B. Supplier will withhold, and require its subcontractors, where applicable, to withhold all required taxes and contributions of any federal, state or local taxing authority which is measured by wages, salaries or other remuneration of its employees or the employees of its subcontractors. Supplier will deposit, or cause to be deposited, in a timely manner with the appropriate taxing authorities all amounts required to be withheld.

C. All other taxes, however denominated or measured, imposed upon the price of the Goods provided hereunder, will be the responsibility of Supplier. In addition, all taxes assessed by any taxing jurisdiction based on Supplier property used or consumed in the provision of the Goods such as and including ad valorem, use, personal property and inventory taxes will be the responsibility of Supplier.

D. Supplier will, upon written request, submit to City written evidence of any filings or payments of all taxes required to be paid by Supplier hereunder.

Section 10. INDEPENDENT CONTRACTOR.

Supplier enters into this Agreement as an independent contractor and not as an employee of City. Supplier shall have no power or authority by this Agreement to bind City in any respect. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Supplier are employees, agents, contractors or subcontractors of the Supplier and not of City. City shall not be obligated in any way to pay any wage claims or other claims made against Supplier by any such employees, agents, contractors or subcontractors or any other person resulting from performance of this Agreement.

Section 11. SUBCONTRACTS.

Unless otherwise specified, Supplier must obtain City's written permission before subcontracting any portion of the Goods. Except for the insurance requirements in Section 13.A, all subcontracts and orders for the purchase or rental of supplies, materials or equipment, or any other part of the Goods, will require that the subcontractor be bound by and subject to all of the terms and conditions of the Agreement. No subcontract or order will relieve Supplier from its obligations to City, including, but not limited to Supplier's insurance and indemnification obligations. No subcontract or order will bind City.

Section 12. TITLE AND RISK OF LOSS.

Unless otherwise agreed, City will have title to, and risk of loss of, all completed and partially completed portions of the Goods upon delivery, as well as materials delivered to and stored on City property which are intended to become a part of the Goods. However, Supplier will be liable for any loss or damage to the Goods and/or the materials caused by Supplier or its subcontractors, their agents or employees, and Supplier will replace or repair said Goods or materials at its own cost to the complete satisfaction of City. Notwithstanding the foregoing, in the event that the City has paid Supplier for all or a portion of the Goods which remains in the possession of Supplier, then City shall have title to, and the right to take possession of, such Goods at any time following payment therefor. Risk of loss for any Goods which remains in the possession of Supplier shall remain with Supplier until such Goods has been delivered or City has taken possession thereof. Supplier will have risk of loss or damage to Supplier's property used in the construction of the Goods but which does not become a part of the Goods.

Section 13. INDEMNIFICATION.

A. Supplier shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence or willful misconduct of Supplier, its officials, officers, employees, agents, subcontractors and subconsultants arising out of or in connection with the Goods or the performance of this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses except such loss or damage which was caused by the sole negligence or willful misconduct of the City.

B. Supplier's defense obligation for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the City, its officials, officers,

employees, agents, or volunteers shall be at Supplier's own cost, expense, and risk. Supplier shall pay and satisfy any judgment, award, or decree that may be rendered against City or its officials, officers, employees, agents, or volunteers, in any such suit, action, or other legal proceeding. Supplier shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

C. Supplier's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, officers, employees, agents or volunteers.

Section 14. INSURANCE.

A. General. Supplier shall take out and maintain:

1. Commercial General Liability Insurance, of at least \$2,000,000 per occurrence/\$4,000,000 aggregate for bodily injury, personal injury and property damage, at least as broad as Insurance Services Office Commercial General Liability most recent Occurrence Form CG 00 01;

2. Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, of at least \$1,000,000 per accident for bodily injury and property damage, at least as broad as most recent Insurance Services Office Form Number CA 00 01 covering automobile liability, Code 1 (any auto);

3. Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence; and

4. Pollution Liability Insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate shall be provided by the Supplier if transporting hazardous materials.

5. If Supplier is also the manufacturer of any equipment included in the Goods, Supplier shall carry Product Liability and/or Errors and Omissions Insurance which covers said equipment with limits of not less than \$1,000,000.

6. Privacy/Network Security (Cyber Liability), of at least \$1,000,000 per occurrence and aggregate for: (1) privacy breaches, (2) system breaches, (3) denial or loss of service, and (4) the introduction, implantation or spread of malicious software code, in a form and with insurance companies acceptable to the City.

B. Additional Insured; Primary; Waiver of Subrogation; No Limitation on Coverage. The policies required under this Section shall give City, its officials, officers, employees, agents or volunteers additional insured status. Such policies shall contain a provision stating that Supplier's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any additional insureds shall not be called upon to contribute to any loss, and shall contain or be endorsed with a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as additional insured pursuant to this Agreement.

C. Insurance Carrier. All insurance required under this Section is to be placed with insurers with a current A.M. Best's rating no less than A-VII, licensed to do business in California, and satisfactory to the City.

D. Evidence of Insurance. Supplier shall furnish City with original certificates of insurance and endorsements effecting coverage required by the Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before delivery commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

E. Subcontractors. All subcontractors shall meet the requirements of this Section before commencing work. In addition, Supplier shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

F. Freight. Supplier shall ensure that third party shippers contracted by Supplier have adequate insurance coverage for the shipped Goods.

Section 15. LIENS.

A. Supplier, subcontractors and suppliers will not make, file or maintain a mechanic's or other lien or claim of any kind or character against the Goods, for or on account of any labor, materials, fixtures, tools, machinery, equipment, or any other things furnished, or any other work done or performance given under, arising out of, or in any manner connected with the Agreement (such liens or claims referred to as "Claims"); and Supplier, subcontractor and suppliers expressly waive and relinquish any and all rights which they now have, or may subsequently acquire, to file or maintain any Claim and Supplier, subcontractor and suppliers agree that this provision waiving the right of Claims will be an independent covenant.

B. Supplier will save and hold City harmless from and against any and all Claims that may be filed by a subcontractor, supplier or any other person or entity and Supplier will, at its own expense, defend any and all actions based upon such Claims and will pay all charges of attorneys and all costs and other expenses arising from such Claims.

Section 16. TERMINATION OF AGREEMENT BY CITY.

A. Should Supplier at any time refuse or fail to deliver the Goods with promptness and diligence, or to perform any of its other obligations under the Agreement, City may terminate Supplier's right to proceed with the delivery of the Goods by written notice to Supplier. In such event City may obtain the Goods by whatever method it may deem expedient, including the hiring of another contractor or other contractors and, for that purpose, may take possession of all materials, machinery, equipment, tools and appliances and exercise all rights, options and privileges of Supplier. In such case Supplier will not be entitled to receive any further payments until the Goods is delivered. If City's cost of obtaining the Goods, including compensation for additional managerial and administrative services, will exceed the unpaid balance of the Agreement, Supplier will be liable for and will pay the difference to City.

B. City may, for its own convenience, terminate Supplier's right to proceed with the delivery of any portion or all of the Goods by written notice to Supplier. Such termination will be effective in

the manner specified in such notice, will be without prejudice to any claims which City may have against Supplier, and will not affect the obligations and duties of Supplier under the Agreement with respect to portions of the Goods not terminated.

C. On receipt of notice under Section 16.B, Supplier will, with respect to the portion of the Goods terminated, unless the notice states otherwise,

1. Immediately discontinue such portion of the Goods and the placing of orders for materials, facilities, and supplies in connection with the Goods,
2. Unless otherwise directed by City, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to City; and
3. Deliver only such portions of the Goods which City deems necessary to preserve and protect those portions of the Goods already in progress and to protect material, plant and equipment at the Goods site or in transit to the Goods site.

D. Upon termination pursuant to Section 16.B, Supplier will be paid a pro rata portion of the compensation in the Agreement for any portion of the terminated Goods already delivered, including material and services for which it has made firm contracts which are not canceled, it being understood that City will be entitled to such material and services. Upon determination of the amount of said pro rata compensation, City will promptly pay such amount to Supplier upon delivery by Supplier of the releases of liens and affidavit, pursuant to Section 7.C.

Section 17. FORCE MAJEURE

A. Supplier shall not be held responsible for failure or delay in shipping nor City for failure or delay in accepting goods described herein if such failure or delay is due to a Force Majeure Event.

B. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the work); (4) pandemics, epidemics or quarantine restrictions; and (5) strikes and other organized labor action occurring at the project site and the effects thereof on the work, only to the extent such strikes and other organized labor action are beyond the control of Supplier and its subcontractors, of every tier, and to the extent the effects thereof cannot be avoided by use of replacement workers. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of the City in its capacity as a municipal authority.

C. In the event of any such excused interference with shipments, City shall have the option either to reduce the quantity provided for in the order accordingly or to exercise its right of cancellation as set forth in this Agreement.

Section 18. MISCELLANEOUS PROVISIONS.

A. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address or at such other address as the respective parties may provide in writing for this purpose:

CITY:

City of San Bernardino
Vanir Tower, 290 North D Street
San Bernardino, CA 92401

SUPPLIER:

*****INSERT NAME, ADDRESS &
CONTACT PERSON*****

Attn: *****INSERT NAME AND TITLE*****

With Copy To:

City of San Bernardino
Vanir Tower, 290 North D Street
San Bernardino, CA 92401
Attn: City Attorney

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

B. Assignment or Transfer. Supplier shall not assign or transfer any interest in this Agreement whether by assignment or novation, without the prior written consent of the City, which will not be unreasonably withheld. Provided, however, that claims for money due or to become due Supplier from the City under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer, whether voluntary or involuntary, shall be furnished promptly to the City.

C. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

D. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

E. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

F. Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

G. Attorneys' Fees and Costs. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, each Party shall pay its own attorneys' fees.

H. Interpretation. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party.

I. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

J. Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective Party.

K. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

L. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

M. City's Right to Employ Other Suppliers. City reserves its right to employ other contractors in connection with the Goods.

N. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relative to the Goods specified herein. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this Agreement, except those contained in or referred to in the writing.

O. Electronic Signature. Each Party acknowledges and agrees that this Agreement may be executed by electronic or digital signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE TO GOODS PURCHASE AGREEMENT
BETWEEN THE CITY OF SAN BERNARDINO
AND [***INSERT NAME***]**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

CITY OF SAN BERNARDINO

[*INSERT SUPPLIER NAME***]**

APPROVED BY:

**DO NOT SIGN FOR REVIEW
PURPOSES ONLY**

[*INSERT NAME***]**
City Manager

Signature

ATTESTED BY:

Name

[*INSERT NAME***]**
City Clerk

Title

APPROVED AS TO FORM:

Best Best & Krieger LLP
City Attorney

Exhibit A
Goods Specifications

[ATTACHED]

Exhibit B
Delivery Schedule

[ATTACHED]

Exhibit C
Fee Schedule

[ATTACHED]

ATTACHMENT "C"
VENDOR QUOTE FORM

VENDOR NAME: _____

ADDRESS: _____

PHONE: _____

The undersigned, hereby declare that they have carefully examined the location of the proposed work, familiarized themselves with the local conditions affecting the cost of the work, and have read and examined the terms and conditions for the following Project:

Paint Supplies and Related Materials

The undersigned, hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project in strict accordance with the Vendor Price Quote for the ELECTRONICALLY SUBMITTED TOTAL VENDOR QUOTE PRICE. The successful vendor shall be awarded a 1-year agreement with 4 (1) year option to extend. Overall Pricing for Option years MUST be indicated below:

Item No.	Exterior Latex Paint (Gallons)	Quantity (annual)	Cost Per Unit	Total Cost
1	Exterior Paint Latex Flat (White)	6,500		\$
2	Exterior Paint Latex Flat (Gray)	6,500		\$
3	Exterior Paint Latex Flat (Beige)	6,500		\$
4	Exterior Paint Latex Flat (Tan)	6,500		\$
5	Exterior Paint Latex Flat (Dark Gray)	6,500		\$
6	Exterior Paint Latex Flat (Red)	3,500		\$
7	Exterior Paint Latex Flat (Concrete-Color)	8,500		\$
8	Exterior Paint Latex Flat (Orange)	1,000		\$
9	Exterior Paint Latex Flat (Yellow)	2,500		\$
Total			\$	\$

Item No.	Aerosol Paint (15oz Cans) Flat or Matte	Cans Qty.	Cost Per Unit	Total Cost
10	White	800		
11	Black	800		
12	Gray	800		

REQUEST FOR VENDOR QUOTES
Project No. RFQ F-23-48

13	Silver/Aluminum	500		
14	Blue	200		
15	Yellow	100		
16	Forest or Hunter Green	500		
17	Sea Foam Green (Specialty)	700		
18	Brown (Park Signage Brown)	600		
	Total		\$	\$

Item No.	Accessories (Items)	Unit Qty.	Cost Per Unit	Total Cost
19	Trays, Heavy Duty metal	150		
20	Tape (painters blue tape) ¾"	100		
21	Tape (painters blue tape) 1 ½"	100		
22	Tape (painters blue tape) 2"	100		
23	Painters Masks to prevent particulates (disposable)	250		
	Total		\$	\$

Item No.	SPECIAL COLOR MATCH	Gallons	Cost Per Unit	Total Cost
24	Exterior Latex Flat Match	3,500		
	Total		\$	\$

Please Note: Traditional upright cans are required (not upside-down cans which are used for markings)

OPTION YEAR	OVERALL TOTAL COST (ALL ITEMS)
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REQUEST FOR VENDOR QUOTES
Project No. RFQ F-23-48

Option Year #1 - 2024/2025	\$
Option Year #2 - 2025/2026	\$
Option Year #3 – 2026/2027	\$
Option Year #4 – 2027/2028	\$

Total Number of Additional Pages: _____

I hereby declare under penalty of perjury that the foregoing is true and correct.

Submitted By: _____ **Title:** _____
(Authorized Representative Signature)

Print Name: _____

Contractor’s License Number and Classification: _____

DIR Registration Number (if applicable): _____