

**MUNICIPALITY OF PRINCETON
COUNTY OF MERCER
STATE OF NEW JERSEY**

Notice of Intent to Award Contract under a National Cooperative Purchasing Agreement

Notice is hereby given that the Municipality of Princeton in the County of Mercer, State of New Jersey ("Princeton"), intends to participate in the Houston-Galveston Area Council ("H-GAC") Cooperative Purchasing Agreement for "Fire Service Apparatus (All Types)" and pursuant thereto, purchase from one of its vendors, Pierce Manufacturing, Inc. ("Pierce"), the following pieces of fire service equipment:

- One (1) Pierce® Arrow XT 75' Rear Mounted Heavy Duty Aerial Ladder; and
- One (1) Pierce® Arrow XT Triple Combination Pumper.

Information regarding the HGAC Cooperative Purchasing Agreement and proposed End User Agreement between Pierce and Princeton may be reviewed at the Princeton Clerk's Office during regular business hours, as well as on its website at: <http://www.princetonnj.gov/emerg-mgt.html>

Princeton joined the H-GAC cooperative on or about April 13, 2015 and the H-GAC contract term with Pierce is from December 1, 2013 to November 30, 2015.

It is Princeton's intent to award a contract to Pierce for the foregoing two (2) pieces of equipment pursuant to the proposal submitted by Pierce.

Princeton is permitted to join national cooperative purchasing agreements and award contracts to vendors pursuant thereto under the authority of N.J.S.A. 52:34-6.2(b)(3) and LFN 2012-10.

Any comments must be in writing and received by the Princeton Clerk's Office, 400 Witherspoon Street, Princeton NJ, 08540, no later than 4:00 p.m. on September 15, 2015.

Kathleen Brzezynski
Deputy Clerk



**INTERLOCAL CONTRACT
FOR COOPERATIVE PURCHASING**

ILC **15-4535**
No.

Permanent Number assigned by H-GAC

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and *Princeton, New Jersey, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at *400 Witherspoon Street, Princeton NJ 08540

WITNESSETH

WHEREAS, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on *04/13/2015 (Date), and that it desires to contract with H-GAC on the terms set forth below;

NOW, THEREFORE, H-GAC and the End User do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

ARTICLE 3: WHOLE AGREEMENT

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

The period of this Contract shall be for the balance of the fiscal year of the End User, which began *01/1/2015 and ends *12/31/2015. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

ARTICLE 5: SCOPE OF SERVICES

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through HGACBuy.com and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

ARTICLE 6: PAYMENTS

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC's contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

ARTICLE 7: CHANGES AND AMENDMENTS

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC's contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11: VENUE

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

* Princeton, New Jersey
Name of End User (local government, agency, or non-profit corporation)
* 400 Witherspoon Street
Mailing Address
* Princeton NJ 08540
City State ZIP Code
*By: [Signature]
Signature of chief elected or appointed official
* Elizabeth Lempert, Mayor 4/26/2015
Typed Name & Title of Signatory Date

Houston-Galveston Area Council
3555 Timmons Lane, Suite 120, Houston, TX 77027
By: [Signature] Executive Director
Attest: [Signature] Manager
Date: May 4, 2015

Attest [Signature] 4/26/15
Linda McDermott, Clerk
*Denotes required fields

MUNICIPALITY OF PRINCETON

END USER AGREEMENT IN CONNECTION WITH PURCHASE OF:

ARROW XT 75' REAR MOUNTED LADDER (PRODUCT NO. UA02)

AND

ARROW XT PUMPER (PRODUCT NO. UC06)

THIS AGREEMENT (also "contract"), made the _____ day of _____, 2015, by and between

THE MUNICIPALITY OF PRINCETON, a municipal corporation of the State of New Jersey, with offices at 400 Witherspoon Street, Princeton, New Jersey, 08540,

("MUNICIPALITY")

and

PIERCE MANUFACTURING, INC., a corporation of the State of Wisconsin, with offices at 2600 American Drive, P.O. Box 2017, Appleton, Wisconsin, 54912-2017,

("CONTRACTOR").

In connection with CONTRACTOR's Proposal Documents, and the MUNICIPALITY's notice of award dated _____, 2015, the MUNICIPALITY and CONTRACTOR hereby agree as follows:

1. Scope of Work

CONTRACTOR hereby agrees to furnish the goods and services specified in the "CONTRACTOR'S Proposal Documents," which shall include an Arrow XT 75' Rear Mounted Ladder and Arrow XT Pumper (collectively "equipment"), and more specifically described in the following:

Exhibit A – Arrow XT 75' Rear Mounted Ladder Proposal Documents:

- A-1 Contract Pricing Worksheet for Arrow XT 75' Rear Mounted Ladder
- A-2 Narrative proposal and specifications for same
- A-3 Side Roll and Frontal Impact Protection
- A-4 Turning Performance Analysis

Exhibit B – Arrow XT Pumper Proposal Documents:

- B-1 Contracting Pricing Worksheet for Arrow XT Pumper

- B-2 Narrative proposal and specifications for same
- B-3 Side Roll and Frontal Impact Protection
- B-4 Turning Performance Analysis

CONTRACTOR'S Proposal Documents, and the provision of its goods and services provided pursuant thereto, are (and shall at all times) be consistent with the terms of the "Contract Between Houston-Galveston Area Council (H-GAC) and Pierce Manufacturing, Inc.," effective from December 1, 2013 to November 30, 2015 ("H-GAC Agreement").

2. Contract Sum and Payment

- A. Based upon the unit prices set forth in A-1 and B-1 of Exhibits A and B, the amount of the contract, subject to any adjustments made in accordance with the Contract Documents, is: \$781,608.18 for the Arrow XT 75' Rear Mounted Ladder and \$546,188.60 for the Arrow XT Pumper, for the total not to exceed contract amount of \$1,327,796.78.
- B. In accordance with the H-GAC Agreement, the MUNICIPALITY agrees to pay CONTRACTOR upon receipt and acceptance of the Arrow XT 75' Rear Mounted Ladder and Arrow XT Pumper. The MUNICIPALITY shall pay CONTRACTOR within thirty (30) days of receipt of CONTRACTOR'S properly executed and audited invoice and municipal voucher.

3. Time of Completion

- A. The goods and services to be provided under this contract shall be commenced and completed as set forth in the Notice of Award and/or Notice to Proceed to be provided by the MUNICIPALITY. In accordance with CONTRACTOR'S Proposal Documents, the equipment shall be delivered within eleven (11) months of CONTRACTOR'S receipt of MUNICIPALITY'S purchase order.
- B. The failure to provide the goods and services within the number of calendar days set forth in the Notice of Award and/or Notice to Proceed and herein, including any extension granted thereto as determined by the MUNICIPALITY, shall entitle the MUNICIPALITY to liquidated damages in the amount of one thousand dollars per day (\$1,000.00/day).

5. Buy American

Only manufactured and farm products of the United States, wherever available, shall be used in connection with this contract, pursuant to N.J.S.A. 40A:11-18.

6. Indemnification and Hold Harmless

CONTRACTOR shall hold harmless, indemnify and defend the MUNICIPALITY and its consultants, officers, employees and agents from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses (including but not limited to attorney's fees) directly or indirectly arising out of, relating to, or in connection with the performance or nonperformance of the work required by the Contract Documents, whether or not due or claimed to be due, in whole or in part, to the active, passive or concurrent negligence or fault of the CONTRACTOR or its officers, agents, servants or employees and/or any other person or persons and whether or not such claims, demands, suits or proceedings are just, unjust, groundless, false or fraudulent. CONTRACTOR's indemnification obligations shall not be limited by the amounts of insurance required to be carried by CONTRACTOR under this contract.

7. Contract Documents

The Contract Documents as defined herein are incorporated into this Agreement and made a part hereof by reference. The Contract Documents shall include this Agreement and all exhibits (A through C, inclusive) attached hereto, along with the following:

- "Contract Between Houston-Galveston Area Council (H-GAC) and Pierce Manufacturing, Inc.," effective from December 1, 2013 to November 30, 2015
- CONTRACTOR'S Pay to Play Forms (Affidavit Required in Connection with the Execution of Certain Contracts, Campaign Contributions Disclosure Statement and Campaign Contributions Affidavit), Non-Collusion Affidavit, Stockholder Disclosure Certification and Certification of Investment Activities in Iran.

8. Affirmative Action Regulations

CONTRACTOR specifically agrees to comply with the affirmative action requirements set forth in the attached Exhibit C, which requirements are incorporated herein and made a part hereof as if fully restated.

9. Business Registration and Sales and Use Tax Requirements

P.L. 2004, c.57, as amended by P.L. 2009, c.315 (N.J.S.A. 52:32-44) requires CONTRACTOR to provide the Municipality with its business registration of prior to the time a contract is awarded. In addition:

- A. A subcontractor named in the proposal shall provide a copy of its business registration to CONTRACTOR who shall provide it to the MUNICIPALITY as required above. No contract with a subcontractor shall be entered into by any contractor under any contract with the MUNICIPALITY unless the

subcontractor first provides CONTRACTOR with proof of a valid business registration.

- B. The MUNICIPALITY will retain the proof of business registration in the file where documents relating to the contract are maintained.
- C. CONTRACTOR shall maintain and submit to the MUNICIPALITY a list of subcontractors and their addresses that may be updated from time to time during the course of the contract performance. A complete and accurate list shall be submitted before final payment is made for goods provided or services rendered under the contract.
- D. For the term of this contract, CONTRACTOR and each of its affiliates shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L. 1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

In the event CONTRACTOR subcontracts any of its work, said CONTRACTOR shall include within its subcontracts the requirement that, for the term of this contract, the subcontractor and each of its affiliates shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L. 1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

10. Pay to Play Compliance; Political Contributions

- A. CONTRACTOR certifies that said CONTRACTOR (including persons and other business entities having an interest in CONTRACTOR as defined by N.J.S.A. 19:44A-20.7) has neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-1 et seq. (i.e., in excess of \$300.00), in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19 affect its eligibility to perform the contract, nor will it make a reportable contribution during the term of this contract to any municipal committee of a political party if a member of that political party is serving in an elective public office for Princeton when the contract is awarded, or to any candidate committee of any person serving in an elective public office for Princeton when the contract is awarded.
- B. CONTRACTOR is advised of the responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c.271, §3) if CONTRACTOR receives contracts in excess of \$50,000 from public entities in a calendar year. It is CONTRACTOR's

responsibility to determine if filing is necessary. Additional information on this requirement is available from ELEC at (888) 313-3532 or at www.elec.state.nj.us.

11. Document Retention – State Comptroller

CONTRACTOR shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

12. Assignment

This contract shall not be assigned, transferred, conveyed or otherwise disposed of without the prior written consent of the MUNICIPALITY.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

ATTEST:

MUNICIPALITY OF PRINCETON

Linda S. McDermott, Clerk

By: _____
Liz Lempert, Mayor

ATTEST:

PIERCE MANUFACTURING, INC.

By: _____