



REQUEST FOR PROPOSALS (RFP) NO. 2023-056

CLOSING DATE AND TIME: JANUARY 26, 2023

DOWNTOWN MESQUITE OVERLAY ORDINANCE

PROPOSALS SHALL BE SUBMITTED ON THIS FORM

The City of Mesquite, Texas invites electronic proposals, mailed proposals or hand delivered proposals from all qualified vendors desiring to furnish the City with consultant services to create development standards and a Downtown Overlay Ordinance for the Downtown Mesquite Development Program Area, complying with the following specifications as listed herein.

The City of Mesquite strongly encourages all vendors to submit proposals online through Periscope Holdings, Inc. (<https://www.periscopeholdings.com>). If you are unable to submit your proposal electronically, you may submit a paper copy by courier or hand deliver **in a sealed envelope or box** to Ryan Williams, Manager of Purchasing, City of Mesquite, 757 N. Galloway Avenue, Mesquite, Texas 75149, or mail to the City of Mesquite Purchasing Office, P.O. Box 850137, Mesquite, Texas 75185-0137. Mark envelope in lower left corner "**RFP NO. 2023-056, Downtown Mesquite Overlay Ordinance**" so the proposals will not be opened until the appointed hour. Proposals submitted must be received before proposal closing on Thursday, January 26, 2023, at 2:00 p.m. Faxed or emailed proposals will not be accepted.

GENERAL CLAUSES AND CONDITIONS

1. If you have questions regarding the preparation of your proposal, you may contact purchasing@cityofmesquite.com.
2. Vendors who do not respond to this proposal, but who want to remain on our mailing list for future opportunities shall indicate "NO PROPOSAL" on the face of this page by putting the date and signed by the authorized representative of your company and return this page to the Purchasing office. Your assistance in this matter is greatly appreciated.
3. **Protection of Resident Workers:** The City of Mesquite actively supports the Immigration and Nationality Act (INA), which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The Contractor shall establish appropriate procedures and controls so no services or products under the Contract Documents will be performed or manufactured by any worker who is not legally eligible to perform such services or employment.
4. **Laws and Ordinances:** The Contractor shall observe and comply with all Federal, State, and local laws, ordinances, and regulations which in any manner affect the Contract or the work and shall indemnify and save harmless the

City against any claim arising from the violation of any such laws, ordinances, and regulations whether by the Contractor or his employees.

5. Proposal Submission: We encourage proposers to submit their proposal on-line via Periscope Holdings at www.periscopeholdings.com. Proposals may also be submitted with **one (1) original, one (1) copy and three (3) USB flash drives**, prior to the closing date and time to be considered. Proposals must be submitted in sufficient time to be received and time-stamped at the above location on or before the published date and time shown on the RFP. The City of Mesquite will not be responsible for mail delivered from the post office. Proposals received after the published time and date cannot be considered and will be returned unopened.
6. Proposals will be received and publicly acknowledged at the location, date and time stated above. Only the name of the proposers responding to this request for proposal shall be released at the proposal opening. Other information submitted by the proposer shall not be released by the City during the proposal evaluation process or prior to contract award. At no time will confidential information, as noted by the proposer, be released.
7. Proposer shall attach official documentation from the State of Texas or other qualified certification agency of M/WBE status of your company with proposal. This data is for informational purposes only and will not affect the proposal award.
8. A completed W-9 form will be required and submitted with proposal.
9. In submitting an offer, respondent certifies that they have not participated in, nor have they been party to any collusion, price fixing or any other illegal or unethical agreements with any company, firm or person concerning the pricing offered.
10. The attached Non-Exclusion Affidavit for General Contractors must be signed, notarized, and submitted with proposal.
11. A representative of the proposing entity who is authorized to enter into contract on behalf of the proposing entity must manually sign proposals in ink. The person signing the proposal must indicate his/her title along with signature. Proposals received without proper signature will not be considered.
12. Any ambiguity in the proposal as a result of omission, error, lack of clarity or non-compliance by the proposer with specifications, instructions and all conditions shall be construed in favor of the City.
13. The City of Mesquite reserves the right to reject any and all proposals, waive formalities and to make award of proposal as may be deemed to the best advantage of the City. No proposal may be withdrawn within forty-five (45) days after date of opening.
14. The City is not liable for any cost incurred by Proposers in replying to this RFP. This includes costs to determine the nature of the proposal, submitting, negotiating, presentations or any other costs a vendor would incur in responding to the RFP.
15. Proposers shall complete all information requested and blanks provided shall be filled in on the provided forms. Failure to completely describe the merchandise being proposed may result in rejection of your proposal.
16. The City of Mesquite reserves the right to evaluate variations from these specifications. If exceptions are made, proposer shall state wherein the merchandise fails to meet these specifications. Failure to completely describe the merchandise being proposed may result in rejection of your proposal.

17. It shall be understood all proposals, responses, inquiries, or correspondence relating to or in reference to this RFP, and all reports, charges and proposal or referencing information submitted in response to this RFP shall become the property of the City and will not be returned. All restrictions on the use of data contained within a proposal and all confidential information must be clearly stated in the RFP. Proprietary information submitted in a proposal, or in response to the RFP, will be handled in accordance with the Texas Open Records Law and other applicable state statutes.
18. It is the vendor's responsibility to check for any addendums that might have been issued before the proposal closing date and time.
19. Cooperative Purchasing: As permitted under the Texas Local Government Code, Chapter 791025, other *government entities may wish to also participate under the same terms and conditions contained in this contract (piggyback)*. Each entity wishing to piggyback must have prior authorization from the City of Mesquite and vendor. If such participation is authorized, all purchase orders will be issued directly from and shipped directly to the entity requiring supplies/services. The City of Mesquite shall not be held responsible for any orders placed, deliveries made or payment for supplies/services ordered by these entities. Each entity reserves the right to determine their participation in this contract.

Successful proposer agrees to extend prices to all entities that have entered into or will enter into joint purchasing interlocal cooperation agreements with the City of Mesquite _____Yes _____No.

20. The proposal evaluation process will occur after the closing date. The City's evaluation and clarification process will commence. An evaluation team will review the proposals. Financial terms will not be the sole determining factor in this award. Other criteria described in this RFP will be considered, as well as any other factors the evaluation team determines may affect the suitability of the proposal for the City's requirements. A Proposer's submission of a proposal constitutes their acceptance of the evaluation technique.

SPECIAL PROVISIONS

1. The successful proposer's rights and duties awarded by the contract may not be assigned to another without written consent of the City signed by the City's authorized agent. Such consent shall not relieve the assigned of liability in the event of default by the assignee.
2. Any deviations from specifications and alternate proposals must be clearly shown with complete information provided by the proposer. They may or may not be considered by the City.
3. 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 to the contract will be made in writing and shall not be effective unless signed by an authorized representative of the City.
4. The City shall have the right to modify this order subject to an adjustment in the price in accordance with the applicable provisions of the purchase order, if any, or pursuant to mutual agreements. No agreement or understanding to modify this order shall be binding on the City unless it is in writing and signed by an authorized representative of the City.
5. The City reserves the right to require additional technical and pricing information and negotiate all elements, which comprise the Vendor's proposal to ensure that the best possible consideration be afforded to all concerned. The City reserves the right to accept all or part of any proposal, to reject any or all proposals and to re-solicit for proposals.
6. All questions must be submitted via email by **12:00 p.m. (CST) Friday, January 20, 2023**, to Ryan Williams, Manager of Purchasing at purchasing@cityofmesquite.com prior to proposal closing date.
7. Proposers shall submit a total of five (5) references.
8. Proposers shall fill out the following required documents, as noted in the proposal. If the following forms are not included, the proposal may be considered non-responsive.

Check List:

- Conflict of Interest Questionnaire
- Non-Exclusion Affidavit for General Contractors
- Prohibition on Contracts with Companies Boycotting Israel
- References
- Proposer's Signature Page
- Proposal Sheet
- IRS W-9
- Secretary of State Filing Certificate

CONTRACTING WITH THE CITY OF MESQUITE

Updated: January 8, 2016

Conflict of Interest Questionnaire And Disclosure of Interested Parties (Form 1295)

YOU WILL BE REQUIRED TO COMPLY WITH THE FOLLOWING:

Chapter 176 of the Texas Local Government Code is an ethics law that was initially enacted by the Texas Legislature with HB 914 in 2005 that requires disclosure of employment and business relationships local government officers may have with contractors, consultants and vendors who conduct business with local government entities. The law applies to any written contract for the sale or purchase of real property, goods, or services. Further information regarding Texas Conflict of Interest laws and the ***Conflict-of-Interest Questionnaire*** (FORM CIQ) can be found at the Texas Ethics Commission web site at the following web address:

<https://www.ethics.state.tx.us/filinginfo/1295/>

PLEASE COMPLETE THE ATTACHED FORM CIQ AND SUBMIT WITH YOUR RESPONSE.

Section 2252.908 of the Texas Government Code was enacted in 2015, by the Texas Legislature pursuant to HB 1295, which provides that a governmental entity may not enter into certain contracts with a business entity on or after January 1, 2016, unless the business entity submits a disclosure of interested parties (FORM 1295) to the governmental entity at the time the business entity submits the signed contract to the governmental entity. Further information regarding the disclosure of interested parties' law and FORM 1295 can be found at the Texas Ethics Commission web site at the following web address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

PLEASE DO NOT COMPLETE FORM 1295 UNTIL YOU HAVE BEEN NOTIFIED OF CONTRACT AWARD AND REQUESTED TO ELECTRONICALLY FILE FORM 1295 WITH THE TEXAS ETHICS COMMISSION.

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

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

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

 Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

 Signature of vendor doing business with the governmental entity

 Date

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

Standards of Conduct

The City of Mesquite conducts business with the public, business partners, vendors, and contractors under a set of rules to ensure that all City officials and employees discharge their duties in a manner designed to promote public trust and confidence in our city. This code of ethics, titled Standards of Conduct, is taken from the Mesquite City Code, Chapter 2, Art. IV, Sec 2-123.

The City wants you to be aware of the rules that its employees are required to follow while performing their services to you. A violation of state or federal statutes may occur if these rules are broken. It is hoped that by outlining these rules for you, your experience in dealing with the City of Mesquite will be both rewarding and satisfactory.

Acceptance of Gifts or Gratuities

Accepting gifts or gratuities by employees in consideration for the performance of their duties, or as an appreciation for their performance, is strictly prohibited.

- Please do not offer employees any gift, loans, or any other thing of value.
- Employees may not receive any fee or compensation for their services from any source other than the City, so please do not offer.
- Please do not offer to buy meals for employees.
- Employees may accept coffee, tea, soft drinks, snacks, etc. when attending meetings in your office.
- Letters to supervisors for exceptional service by employees are always welcome.

Conflicts of Interest

Employees are prohibited from engaging in any outside activities that conflict with, or have the appearance of conflicting with, the duties assigned to them in the employment of the City.

- Please do not ask employees for any special favor or consideration that is not available to every other citizen.
- Please do not ask an employee to disclose any information that is not available to every other citizen through normal public information channels.
- Please do not offer to compensate the employee by offering to hire, or do business with any business entity of the employee or family member
- Do not ask employees to represent you or your company or make any recommendations on your behalf other than those that are a part of their official duties with the City.
- Please do not ask employees to endorse the products or services of your company.
- Please do not ask employees to hand out or post advertising materials.

Solicitation by City Employees

Employees may not solicit gifts, loans, or any other items of value from people doing City business that will be used by them personally.

- If you are asked to pay a fee for services that you believe is improper or illegal, please contact the City's ethic's officer at **972-329-8723**. (payments should only be made to designated cashiers or clerks)
- Employees are prohibited from taking retaliatory action against you for failing to comply with any request unless the request is within the scope of the employee's official duties for the City.

Use of City Equipment, Facilities and Resources

Use of City equipment, facilities and resources is authorized only for City purposes and for those activities permitted by City ordinance and policy.

- Please do not ask employees to use City equipment to run errands or perform tasks for your benefit.
- Employees may not perform tasks, nor conduct any business not related to their official duties while on City time.

Your Rights and Expectations

When dealing with employees of the City of Mesquite you have the right to honest, fair, and impartial treatment. You may expect prompt, courteous, and professional service from our employees who are expected to understand and practice good customer service skills. Employees are tasked to uphold the public trust through the ethical performance of their duties. We understand that the enforcement of regulatory guidelines and codes may sometimes be a cause for concern; however, you may rest assured that we are responsible to all of the citizens of Mesquite and our goal is to serve them to the best of our ability.

Should you have any concerns or questions concerning this information or the conduct of any of our employees please contact the City's ethics officer at 972-329-8723. All calls to the City's ethics officer are confidential and your name (or any other identifying information) will not be disclosed.

Cliff Keheley
City Manager

Non-Exclusion Affidavit for General Contractors

Federal, state, and local government agencies, not-profits, and other organizations that use federal money to fund all or part of any program or project are required to follow specific requirements regarding the use of such federal funds. One of these requirements is that no contract, subcontract, grant, financial assistance, or other forms of assistance provided using federal funds may be awarded to individuals or entities that have been suspended, debarred, or otherwise excluded from participation in federally funded programs.

The U.S. federal government maintains a Web site known as the "System for Award Management" (SAM) at www.sam.gov. One of the purposes of the SAM Web site is to provide a comprehensive list of all individuals, firms, and other entities that have been suspended, debarred, or otherwise excluded from participation in federally funded contracts, subcontracts, grants, etc. SAM provides a simple means of helping government, non-profit agencies, and other organizations ensure that they do not award federally funded grants, contracts, subcontracts, or other financial or non-financial benefits to any individual, firm, or other entity that has been excluded by any agency from participation in such federally funded activities.

I, _____ (Contractor Representative), hereby certify that neither I nor _____ (Name of the company or organization I represent) nor any subcontractors that I or said company may employ to work on any federally funded activity have been suspended, debarred, or otherwise excluded by any federal agency from participation in any federally funded activity. I further acknowledge my understanding that, before entering into a contract with me or with the company or organization I represent, City of Mesquite staff will perform a search on www.sam.gov to verify whether I, the organization I represent, or any subcontractors I may employ to work on any federally funded activity, have been excluded from participation in any federally funded activity.

Signature of Contractor Representative

Date

Sworn to and subscribed before me this _____ day of _____, 20_____

Notary Public in and for _____ County, _____ (Insert State Name)

**PROHIBITION ON CONTRACTS WITH
COMPANIES BOYCOTTING ISRAEL**

Chapter 2271 of the Texas Government Code, provides that the City may not enter into a contract* with a company for goods or services unless the contract contains a written verification from the company that it: (i) does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract.

“Boycott Israel” is defined to mean refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. “Company” is defined to mean a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

*** The requirement applies only to a contract that: (1) is between the City and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from City funds.**

I, _____, the _____
(Name of Certifying Official) (Title or Position of Certifying Official)

of _____, does hereby verify on behalf of said
(Name of Company)

company to the City of Mesquite that said company does not Boycott Israel and will not Boycott Israel during the term of this contract.

Signature of Certifying Official

Title

Date of Certification

Date of Certification

REFERENCES

Please provide the names, city and state, phone number, dates, work description and contract amount for the three (3) most recent Economic Development Strategic Plans completed for municipalities and/or EDO's.

1. _____

2. _____

3. _____

4. _____

5. _____

PROPOSAL EVALUATION

RFP shall be awarded to the best-quoted proposal. The proposals will be evaluated on the factors outlined below that shall be applied to all eligible, responsive proposals in selecting the successful Offer. Award of a contract may be made without discussion with proposers after responses are received. Proposals should, therefore, be submitted on the most favorable terms.

Sealed Proposal Submission

Proposals shall be sealed and clearly marked with the Proposer's name and return address and indicate the proposal number and title. Facsimile or e-mail submitted proposals **will not** be accepted. Responses received after the deadline cannot be considered and will be returned unopened. The City is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City, or any other delivery method employed by the Proposer.

Proposers or their authorized representatives are expected to fully inform themselves as to the general terms and conditions, requirements, and development criteria of this RFP before submitting proposals. Failure to do so will be at the proposer's own risk.

CRITERIA FOR EVALUATION IN ORDER OF IMPORTANCE:

- | | |
|---|-----|
| 1. Relative experience | 30% |
| 2. Public engagement strategy | 25% |
| 3. Familiarity with downtown development best practices | 25% |
| 4. Ordinance Content and Implementation strategy experience | 20% |

Negotiations may be conducted with responsible proposers who submit proposals determined to be susceptible of being selected for award. **All Proposers will be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals.** Revisions to proposals may be permitted after submission and before award for the purpose of obtaining best and final offers.

After negotiations the City will present a contract reflecting the agreements reached between the City and the selected proposer during the negotiation process subsequent to the RFP award, to Mesquite City Council for approval. Approval by the Mesquite City Council and signature by authorized representatives will result in the final and binding contract between the City and the selected Proposer.

PROPOSAL INFORMATION

Section 1 – Introduction and Overview

The City of Mesquite Economic Development department requests the submission of proposals from qualified firms to develop a Downtown Overlay Ordinance that will guide design standards and accommodate development of businesses (in particular those allied within the Downtown Development Program’s three selected development categories, described in this document).

Mesquite, Texas, was founded in 1878 along the Texas & Pacific Railway in the heart of what is now Downtown Mesquite. The city was officially incorporated on December 3, 1887. Today the population is 150,108 and Mesquite is the 22nd-largest city in the state of Texas and 11th in the DFW Metroplex. It is 46 square miles and covers areas of Dallas County and Kaufman County.

Mesquite prospered through the late 19th and early 20th centuries as a farming community, growing cotton, hay, corn, and sugar, utilizing the railroad to ship raw goods. The town was primarily agrarian until after World War II when the suburban boom surrounded Dallas.

Mesquite holds the designation as the Rodeo Capital of Texas due to the establishment of the Mesquite Rodeo in 1946. During its peak, the rodeo was broadcast world-wide. The rodeo is still viable and active today, housed in the Mesquite Arena which was recently improved to accommodate concerts and other types of events as well. The Mesquite Arena is adjacent to the Mesquite Convention Center. Military Parkway connects Downtown Mesquite to the Mesquite Arena, and therefore appropriate development within this area is critical to downtown success.

The district’s biggest boom days occurred in the 1950s, when a good deal of historic fabric was lost to “progress”, deference to vehicular traffic over pedestrians, and sprawl in general. Over time, Downtown Mesquite devolved due to variety of factors, including lack of a framework to guide design, signage, construction materials, occupancy, and more.

In 2016, City Council declared Downtown revitalization a priority. Numerous stakeholder planning sessions were held, resulting in a variety of outcomes, including creation of the Downtown Development Manager position within the Economic Development Department. Since then, downtown has achieved:

- Designation and then National Accreditation within the National Main Street Program
- Development of an advisory board and several volunteer-driven task force groups
- More than \$7 million of public reinvestment, including the Front Street Station infrastructure project
- Reinvestment of more than \$2 million by the private sector
- New businesses such as Bear Cave Coffee and MVP Nutrition and Fitness
- Multiple property sales
- Six statewide achievement awards

As the Downtown development program has gained momentum, there have been issues with signage, construction and occupancy that do not coincide with the drive for authenticity, compatible building improvements and new build, and development of businesses within the three selected Economic Transformation Strategies: Dining and Entertainment, Art, and Food.

This Downtown Mesquite Overlay Ordinance will enable the City of Mesquite to guide contextual design, preserve authenticity, and drive new uses that propel the Downtown economy toward fulfilling the three Economic Transformation Strategies noted above more carefully.

This document provides information to assist firms in preparing their responses and facilitates the subsequent evaluation and comparison process. In that regard, this RFP:

- A. Provides information essential to soliciting responses that showcase how the firm would produce a Downtown Overlay Ordinance that addresses the district’s future design and business development.
- B. Specifies the desired format and content of Proposals in response to this RFP.
- C. Outlines the City’s evaluation and selection procedures.
- D. Provides a sample of the City’s Terms and Conditions.
- E. Establishes a schedule for the preparation and submission of Proposals in response to this RFP; and,
- F. Establishes a performance standard for the selected firm (herein the “Firm”).

Section 2 – Scope of Services

The scope of services listed below is not intended to be a comprehensive list of what the Firm will provide. It is expected that the Firm’s proposals will provide more specific recommendations for approaches, tasks and deliverables based on their experience and expertise from past work on Downtown overlay projects. The final scope of services will be developed in collaboration with the selected Firm. The scope of services, focused on the formation and implementation of tactical economic development strategies, will at a minimum include the following:

- A. Decision-Making Coordination:** The Firm will partner with the City to provide facilitatory and technical support. The City will render all final decisions in preparation and adoption of the Downtown Overlay Ordinance. The Firm will provide regular staff reports and hold periodic meetings with the Director of Economic Development, Director of Planning and Development Services, and the Downtown Development Manager.
- B. Downtown Development Approach:** The Firm will incorporate the development strategies thus far identified by the Downtown Development Program.
- C. Stakeholder Engagement and Visioning:** Working with Economic Development staff and the Mesquite Downtown Development Advisory Board the Firm will formulate and execute a modern and inclusive public and private stakeholder engagement strategy. Techniques may include group stakeholder meetings, individual interviews, and/or surveys. The strategy should identify the purpose of each identified stakeholder/stakeholder group.
- D. Downtown Overlay Ordinance Recommendations and Mapping:** Produce a map that suggest overlay zone(s) and bullet-point narrative support for the suggestions.
- E. Write the Ordinance**

- F. Implementation Strategy:** Produce a strategy for implementation of the Downtown Overlay Ordinance.
- G. Final Product:** The Firm will produce a draft and then a final product that includes all minimum elements outlined in the scope of services. The content shall reflect best practices for guiding appropriate design, adaptive reuse, infill, new construction, and occupancy standards. Firm will present the final product to the City and the City Council. The Firm will provide bound paper copies [number to be determined when the Firm is chosen], a PDF, and separate electronic files of all documents.

Section 3 – Questions

Questions shall be submitted prior to the question deadline in writing and addressed to Ryan Williams, Manager of Purchasing via email only at purchasing@cityofmesquite.com. The City reserves the right to provide questions and answers to all prospective firms in the form of an addendum to the RFP. All addendums will be posted to the City’s website at cityofmesquite.com/purchasing. Firms shall not attempt to contact City Council members, City staff or Management directly during the pre-proposal or post-proposal period.

Section 4 – Proposal Submission Requirements

There is no actual, express, or implied obligation for the City to reimburse responding firms for any costs or expenses incurred in preparing Proposals in response to this Request for Proposal, and the City will not reimburse responding firms for these costs or expenses, nor will the City pay any subsequent costs associated with the provision of any additional information or presentations, or to procure a contract for these services. The City is not responsible for any cost(s) incurred by a firm in preparing and/or submitting a proposal in response to this RFP. The City will also not be responsible for any costs associated with preparing and/or participating in any systems demonstrations requested of the firm’s products and services.

Proposal Organization Guidelines

The proposal shall include the information noted in this section and be organized accordingly.

Part 1 – Experience

- A. Briefly introduce the firm, provide number of years in business and its principals/leaders. Include its mission/vision statement and primary purpose or focus of work.
- B. List of recent projects(s) and the project team responsible for that work.
- C. Provide assurances that the execution of Mesquite’s Downtown Overlay Ordinance will not be negatively impacted by any potential concurrent projects the Firm has going on.
- D. Identify the project manager, technical writer, graphic designer, analyst, and all other persons with responsibilities, as applicable, for this project.
- E. Provide a paragraph for each person on the project team including work on similar projects and roles on those projects, awards for similar projects, professional designations, affiliations, certifications, and licenses.
- F. Provide professional references from economic development and city administration professionals, preferably from similarly sized and/or geographically close municipalities.

Part 2 – Functional Approach

- A. Describe how the project team would approach the elements listed in the Scope of Services.

- B. Describe how the project team will handle data and knowledge transfers between the City, the Firm, stakeholders, and ultimately return to the City.
- C. Provide a timeline for the entire scope of project activity, engagement, draft reviews, and delivery date of the final report and implementation plan.

Part 3 – Technical Approach

- A. Provide examples of the project team’s work summarizing technical content that is concise, market-driven, and easily understood by stakeholders.
- B. Provide examples and describe any experience the project team has in developing Downtown overlays, especially within a revitalization program framework.

Part 4 – Cost Proposal

- A. Provide a detailed cost proposal. City may elect to complete any combination of tasks or phases. Indicate any cost savings available by completing one or more or any combination of tasks or phases.
- B. Estimate travel and other reimbursable expenses.
- C. The actual contract amount will be negotiated after the firm has been selected and the scope of services finalized.

Part 5 – Statement of Acknowledgement of Addendums (if applicable)

Section 5 – Evaluation Criteria

Proposals shall be evaluated in accordance with the following criteria. See the attached scoring sheet for a more detailed description.

Criteria	Description	Percentage
Relative Experience	The Firm demonstrates a depth of experience with creation of overlay ordinances for downtown development districts and provides examples of such.	30
Public Engagement Strategy	The Firm demonstrates an ability to successfully engage with stakeholders, officials, and the public to gain perspective, identify priorities, and drive positive public consensus.	25
Familiarity with downtown development best practices	The Firm demonstrates experience with best practices in downtown development, and in particular the Main Street program methodology.	25
Content and Implementation Strategy	The Firm’s ability to produce final proposed Downtown Overlay Ordinance content and a basic strategy for implementation.	20

Final scoring for these criteria may be adjusted based on the results of the interviews, reference calls, or other supplemental information requests. In addition to the foregoing criteria, the award of the contract will be based on an evaluation of the best overall value and benefit to the City and ultimately to the City.

Note: The Firm is cautioned that it is the Firm’s sole responsibility to submit information related to the evaluation categories. The City is under no obligation to solicit such information if it is not included in the firm’s original proposal. Failure to do so may result in your Proposal being disqualified from further review and consideration.

The City makes no guarantees or representations that any award will be made and reserves the right to cancel this solicitation for any reason, including:

- Reject any and all proposals received as a result of this RFP, with or without cause.
- Waive or decline to waive any informality and any irregularities in any proposal or responses received.
- Negotiate changes in the scope of services to be provided.
- Withhold the award of contract(s).
- Select Firm(s) it deems to be most qualified to fulfill the needs of the City. Firm(s) with the lowest priced proposal(s) will not necessarily be selected, since a number of criteria other than price are important in the determination of the most acceptable proposal(s).
- Terminate the RFP process.

Section 6 – Schedule of Events

The following Schedule of Events represents the best estimate of the schedule the City will follow. Any significant change to the schedule will be published via RFP Addendum.

Event	Estimated Date
Release RFP Newspaper	January 12, 2023
Advertisement Dates	January 12, 2023, and January 19, 2023
Deadline for Questions from Firms	Friday, January 20, 2023, 12:00 p.m. (CST)
City’s response to Questions from Firms	Tuesday, January 24, 2023, 12:00 p.m. (CST)
Deadline for Proposal Submissions	Thursday, January 26, 2023, 2:00 p.m. (CST)
First Evaluation	Tuesday, January 31, 2023
Finalist(s) Notification	Wednesday, February 1, 2023
Finalist(s) Interviews and Presentations	Thursday, February 9, 2023
Notification of Award	Tuesday, February 14, 2023

Section 7 – RFP Terms and Conditions

The following terms and conditions apply to this RFP solicitation process and will be incorporated into the resulting contract as applicable.

Required Consulting Services Contract

The successful/selected firm will be required to enter into a written Consulting Services Contract (the “Contract”) in a form substantially similar to the attached example. Such Contract will be prepared by the City and approved by the City Attorney. Firms submitting an SOQ should make themselves fully aware of the terms and conditions in the attached example including, but not limited to, the indemnification and insurance requirements, incorporated herein for all purposes. By submitting a proposal, the successful/selected firm agrees and acknowledges that although the Contract will be between the City and the Firm.

No Obligation, Right of Rejection, and Multiple Award

The inquiry made through this RFP implies no obligation on the part of the City. This RFP does not constitute an offer or a contract with any Firm or other party.

As previously stated, and to emphasize, the City reserves the right to reject any or all Proposals, in whole or in part, or to accept or reject all or any part of any Proposal. Proposals deemed to be received from debarred or suspended vendors will be rejected. The City may reject any Proposal that is not responsive to all the material and substantial terms, conditions, and performance requirements of this RFP. The City further reserves the right to award all, part, or none of the components/functional areas included in this RFP. In addition, the City reserves the right to make one or more awards to competing firms for subsets of functionality as a result of this RFP. The City reserves the right to reject any Proposal determined to be nonresponsive. The City reserves the right to negotiate with any or all Firms with respect to any or all terms of a Proposal or Contract, including but not limited to the fees. The City also reserves the right to refrain from making an award if it determines it to be in its best interest. The City reserves the right to abandon the Project and/or to re-advertise and solicit other Proposals.

Contract Approval

Proposers understand that this RFP does not constitute an offer or a contract with the Firm. This RFP does not, by itself, obligate the City to award a contract. The City’s obligation will commence only following City Council approval of a contract and the parties’ execution of the contract. Upon written notice to the Firm, the City may set a different starting date for the contract. The City will not be responsible for any work done or expense incurred by the Firm or any subcontractor, even such work was done, or such expense was incurred in good faith, if it occurs prior to the contract start date set by the City.

Confidential Information

Any written, printed, graphic, electronic, or magnetically recorded information furnished by the City for the Firm’s use are the sole property of the City. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning the City’s employees, products, services, prices, operations, security measures, and subsidiaries.

The Firm and its employees shall keep this confidential information in the strictest confidence and will not disclose it by any means to any person except with the City’s approval, and then only to the extent necessary to perform the work under the contract or as may be required by law. These confidentiality obligations also apply to the Firm’s employees, agents, and subcontractors and Firm shall be liable for a breach of the confidentiality obligations by any such party. On termination of the contract, the Firm, its employees, agents, and subcontractors will promptly return any confidential information in its possession to the City.

Pending and Recent Litigation

Firms must disclose any pending or recent litigation they are involved in as a company. Recent is defined as the past three (3) years. Information provided should include the timeline of the litigation history, the subject of the litigation, and the current status of the litigation. Proposals must also disclose any pending litigation of any third-party partners in the Proposal.

Contract Negotiation

After final evaluation, the City may negotiate with the offeror(s) of the highest-ranked Proposal. If any Firm fails to negotiate in good faith, the City may terminate negotiations and negotiate with the offeror of the next highest-ranked Proposal or terminate negotiations with any or all Firms.

If contract negotiations are commenced, they may be held at City office locations or via teleconference at a date and time to be determined. If contract negotiations are held, the Firm will be responsible for all of Firm's costs including, without limitation, its travel and per diem expenses and its legal fees and costs.

Failure to Negotiate

If the selected Firm:

1. Fails to provide the information required to begin negotiations in a timely manner.
2. Fails to negotiate in good faith.
3. Indicates it cannot perform the contract within the designated timeframes or within budgeted funds available for the Project; and/or
4. If the Firm and the City, after a good-faith effort, cannot come to terms; then City may terminate negotiations with the Firm initially selected and commence negotiations with the next highest-ranked Firm. At any point in the negotiation process, the City may, at its sole discretion, terminate negotiations with any or all Firms.

Policy Compliance

The Firm shall, as a condition of being considered for award of the contract, require each of its agents, officers, and employees to abide by City policies prohibiting sexual harassment, and smoking, as well as all other reasonable work rules, safety rules, or policies regulating the conduct of persons on City property at all times while performing duties pursuant to the contract. The Firm agrees and understands that a violation of any of these policies or rules will constitute a breach of the contract and will be sufficient grounds for immediate termination of the contract by the City.

Public Information

All Proposals, responses, inquiries, or correspondence relating to or in reference to this RFP, and all reports, charts and Proposals or referencing information submitted in response to this RFP, shall become the property of the City, and will not be returned. The City will use discretion with regard to disclosure of proprietary information contained in any response but cannot guarantee information will not be made public. As a governmental entity, the City is subject to making records available for disclosure pursuant to applicable public record disclosure laws, and Proposers, including the Firm ultimately awarded the contract, shall cooperate in complying with such public disclosure laws at no additional cost to the City.

Ownership of Data and Transition

Any and all City data stored on the Firm's servers or within the Firm's custody, is the sole property of the City. The Firm, its subcontractor(s), officers, agents, and assigns, shall not make use of, disclose, sell, copy, or reproduce the City's data in any manner, or provide to any entity or person outside of the City without the express written authorization of the City. In the event resulting Contract is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth, the Selected Firm shall:

- a) Incur no further financial obligations for any materials, Services, under the Contract without prior written approval of the City.

- b) Terminate all purchase orders or procurements and any subcontractors and cease all work, except as the City may direct, for orderly completion and transition; and
- c) Existing City data provided to the Firm remains the property of the City and must be returned to the City after completion of services or upon termination of the Contract.

If your proposal differs in **any way** from what is specified herein, please indicate any/all differences. Otherwise, it will be assumed that your proposal conforms to these specifications in every respect.

PROPOSAL SHEET

DOWNTOWN MESQUITE OVERLAY ORDINANCE

PLEASE PROVIDE A PRICE QUOTE FOR THE FOLLOWING:

ITEM NO.	RATE	DESCRIPTION	RATE (IN FIGURES)
A-D	Hourly	Downtown Overlay Ordinance, which includes: A. PUBLIC ENGAGEMENT with staff, stakeholders, public B. MAP of proposed Downtown Overlay Ordinance focus C. ORDINANCE D. IMPLEMENTATION STRATEGY (basic)	\$ _____

Total Base Proposal of Items A-D complete and in place, not-to-exceed the sum of: <hr style="border: 0; border-top: 1px solid black;"/> Dollars and <hr style="border: 0; border-top: 1px solid black;"/> Cents (written) LUMP SUM	\$ _____ <hr style="border: 0; border-top: 1px solid black;"/> (figures) LUMP SUM
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DOWNTOWN MESQUITE OVERLAY ORDINANCE

With full knowledge for the requirements, do hereby agree to furnish the coverage in full accordance with the development criteria and requirements.

I certify that _____ and its response complies with these
(Name of Organization)
development criteria.

Signature

Type/Print Name

Title

Date

NOTICE

The following blank spaces in the contract are **NOT** to be filled in by the Respondent at the time of submitting his response. The contract form is submitted at this time to familiarize the Respondent with the form of contract, which the successful Respondent will be required to execute.

CONSULTING SERVICES CONTRACT WITH _____

THIS CONTRACT is made and entered into by and between the **CITY OF MESQUITE**, a Texas home-rule municipal corporation, of Dallas County, Texas, (hereinafter called "City"), and _____, a _____ company, with an address of _____, _____, _____ (hereinafter called "Consultant"). City and Consultant may be referred to collectively as "Parties" and individually as "Party."

1. PURPOSE

The purpose of this Contract is to state the terms and conditions under which Consultant shall provide an economic development strategic plan and consultation services for City.

2. DESCRIPTION OF GOODS AND/OR SERVICE

A. Consultant shall provide all of the goods and/or services as specified in accordance with this Contract, such goods and/or services hereunder shall include, but shall not be limited to, the following:

CITY OF MESQUITE CONTRACT NO. RFP 2023-056

DOWNTOWN MESQUITE OVERLAY ORDINANCE

- (i) City of Mesquite Scope of Services (Exhibit A).
- (ii) Minimum Insurance Requirements (Exhibit B).
- (iii) City of Mesquite RFP No. _____, including addenda and amendments (Exhibit C on file at the City of Mesquite Purchasing Division).
- (iv) Consultant's response to RFP No. _____ (Exhibit D).

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to this written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

B. Consultant shall work closely with City's Director of Planning and Development Services and the City's Director of Economic Development, or their designee (hereinafter referred to as "Director"), and other appropriate City officials as directed and shall perform any and all related tasks required by the Director in order to fulfill the purposes of this Contract.

C. Consultant shall deliver to the Director all reports and related documents, information, or other data which are required to be produced and given to City in performing services under this Contract (hereinafter called "deliverables") in the format required by the Director.

3. PERFORMANCE OF SERVICES

Consultant and its employees or associates shall perform all the services under this Contract. Consultant represents that all its employees or associates who perform services under this Contract shall be fully qualified and competent to perform the services described in Section 2.

4. TERM

The term of this Contract shall begin on _____ and end on _____. Consultant understands and agrees that time is of the essence. All deliverables are to be completed and delivered to City by the termination date, or by the milestone or completion date or dates provided in a performance schedule agreed upon between Consultant

and the Director, unless an extension of time, based upon good reasons presented by Consultant, is approved by the Director.

5. PAYMENT FOR SERVICES

In consideration of the services to be performed by Consultant under the terms of this Contract, City shall pay Consultant for services actually performed a fee not to exceed \$ _____, including all reimbursable expenses, as provided in City's Scope of Services (Exhibit A). If other conditions necessitate additional services or a change in services as provided in Section 6, any increase in compensation must be authorized and funded in advance by supplemental agreement duly signed by the City Manager, attested to by the City Secretary, and approved as to form by the City Attorney. Consultant's charges for its services are not to exceed similar charges of Consultant for comparable services to other customers. Payments to Consultant shall be in the amount shown by the itemized billings and other documentation submitted and shall be subject to the Director's approval. All services shall be performed to the satisfaction of the Director, and City shall not be liable for any payment under this Contract for services which are unsatisfactory, and which have not been approved by the Director. The final payment due under this Contract will not be paid until the required deliverables have been received in the required format and approved by the Director. City may, at its option, offset any amounts due and payable under this Contract against any debt (including taxes) lawfully due to City from Consultant, regardless of whether the amount due arises pursuant to the terms of this Contract or otherwise and regardless of whether or not the debt due to City has been reduced to judgment by a court.

6. CHANGE IN SERVICES

City, acting through its Director, may request from time-to-time changes in the scope or focus of the activities conducted or to be conducted by Consultant pursuant to this Contract. Any change in the scope or focus which varies significantly from the scope of services set out in Section 2 and would entail a significant increase in cost or expense to Consultant shall be mutually agreed upon by Consultant and the Director. Changes in the scope which in the opinion of Consultant and the Director would justify an increase in compensation requiring additional funding by City must first be authorized in writing as described in Section 5.

7. CONFIDENTIAL WORK

No deliverables or other information (including information given by City to Consultant to assist Consultant's performance under this Contract) developed by, given to, prepared by, or assembled by Consultant under this Contract shall be disclosed or made available to any third-party individual or organization by Consultant without the express prior written approval of the Director.

8. OWNERSHIP OF DOCUMENTS

Upon acceptance or approval by City, all deliverables prepared or assembled by Consultant under this Contract, and any other related documents or items shall become the sole property of City and shall be delivered to City, without restriction on future use. Consultant may make copies of any and all deliverables and related documents or items for its files. By execution of this Contract and in consideration of the fee for services to be paid under the Contract, Consultant hereby conveys, transfers, and assigns to City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the project designs and other project data developed under this Contract.

9. CONSULTANT'S LIABILITY

Approval of City shall not constitute or be deemed a release of the responsibility and liability of Consultant, its employees, agents, associates, or subconsultants for the accuracy and competency of the deliverables prepared by Consultant, its employees, agents, associates, or subconsultants, as required under this Contract. In addition, approval of City shall not be deemed to be the assumption of any responsibility by City for any defect, error, or omission in the deliverables prepared by Consultant, its employees, agents, associates, or subconsultants.

10. COMPLIANCE WITH LAWS AND REGULATIONS

This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Mesquite, as amended, and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. Consultant shall, during the course of performance of this Contract, comply with all applicable City codes and ordinances, as amended and all applicable State and Federal laws, rules and regulations, as amended. In particular, Consultant is put on notice that City will require the Consultant to comply with Chapter 176 of the Texas Local Government Code by completing the attached Conflict of Interest questionnaire (FORM CIQ) and returning the completed FORM CIQ to the CITY. Additionally, Consultant must comply with Section 2252.908 of the Texas Government Code, which was enacted in 2015 by the Texas Legislature pursuant to HB 1295, providing that a governmental entity may not enter into certain contracts with a business entity on or after January 1, 2016, unless the business entity submits a disclosure of interested parties (FORM 1295) to the governmental entity at the time the business entity submits the signed contract to the governmental entity. Further, information regarding the disclosure of interested parties' law and instructions on filing FORM 1295 can be found at the Texas Ethics Commission website at the following web address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Failure to comply with any applicable laws, including Chapter 176, may result in: (1) the forfeiture by Consultant of all benefits of this Contract; (2) the retainage by City of all services performed by Consultant; and (3) the recovery by City of all consideration, or the value of all consideration, paid to Consultant pursuant to this Contract.

11. INDEPENDENT CONSULTANT

Consultant's status shall be that of an independent Consultant and not an agent, servant, employee, or representative of City in the performance of the services under this Contract. Consultant shall exercise independent judgment in performing services under this Contract and is solely responsible for setting working hours, scheduling, or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Contract or act of Consultant in the performance of this Contract shall be construed as making Consultant the agent, servant, or employee of City, or making Consultant or any of its employees eligible for the fringe benefits, such as retirement, insurance, and worker's compensation, which City provides its employees.

12. INDEMNITY

CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONSULTANT'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF CONSULTANT, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONSULTANTS, IN THE PERFORMANCE OF THIS CONTRACT. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES TO THIS CONTRACT AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

13. INSURANCE REQUIREMENTS

A. Consultant shall procure, pay for, and maintain during the term of this Contract, with a company authorized to do business in the State of Texas and otherwise acceptable to City, the minimum insurance coverage contained in attached Exhibit B.

B. Approval, disapproval, or failure to act by City regarding any insurance supplied by Consultant or its subconsultants shall not relieve Consultant of full responsibility or liability for damages, errors, omissions, or accidents as set forth in this Contract. The bankruptcy or insolvency of Consultant's insurer or any denial of liability by Consultant's insurer shall not exonerate Consultant from the liability or responsibility of Consultant set forth in this Contract.

14. GIFT TO PUBLIC SERVANT

City may terminate this Contract immediately if Consultant has offered, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

For purposes of this section, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

Notwithstanding any other legal remedies, City may require Consultant to remove any employee of Consultant from the Project who has violated the restrictions of this section or any similar state or federal law and obtain reimbursement for any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

15. ASSIGNMENT

This Contract provides for unique consulting services. Consultant, therefore, shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of City's Director.

16. TERMINATION

City's Director may, at its option and without prejudice to any other remedy City may be entitled to at law, in equity or elsewhere under this Contract, terminate further work under this Contract in whole or in part for cause or for the convenience of City by giving at least ten (10) days advance written notice of termination to Consultant, with the understanding that all performance being terminated shall cease as of a date to be specified in the notice. City also has the right to request that Consultant assign and transfer to City all of Consultant's rights and obligations under existing subcontracts it has to perform Contract work in the event of termination under this Section. City shall compensate Consultant in accordance with the terms of this Contract for Contract work properly performed prior to the date of termination specified in the notice, following inspection and acceptance of same by City's Director. Consultant shall not, however, be entitled to lost or anticipated profits should City choose to exercise its option to terminate.

17. NOTICES

Except as otherwise provided in Section 18, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for City, to:

Director of Planning and Development Services / Director of Economic Development
City of Mesquite
1515 North Galloway Avenue,
Mesquite, Texas 75149

If intended for Consultant, to:

18. EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

A. Consultant shall not discriminate against any employee or applicant for employment because of race, age, color, ancestry, national origin, place of birth, religion, sex, military or veteran status, genetic characteristics, or disability unrelated to job performance. Consultant shall also comply with all applicable requirements of the Americans with

Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. Consultant agrees to post in conspicuous places a notice, available to employees and applicants, setting forth the provisions of this non-discrimination clause.

B. If Consultant fails to comply with the equal employment opportunity/nondiscrimination provisions of this Contract, it is agreed that City at its option may do either or both of the following:

- (1) Cancel, terminate, or suspend this Contract in whole or in part.
- (2) Declare Consultant ineligible for further City contracts until it is determined to be in compliance.

19. RIGHT OF REVIEW AND AUDIT

City may review any and all of the services performed by Consultant under this Contract. City is granted the right to audit, at City's election, all of Consultant's records and billings relating to the performance of this Contract. Consultant agrees to retain such records for a minimum of three (3) years following completion of this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

20. VENUE

The obligations of the parties to this Contract shall be performable in Dallas County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Dallas County, Texas.

21. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

22. MISCELLANEOUS

A. Pursuant to Section 2271.002, Texas Government Code, if the Consultant employs 10 or more full-time employees and the Contract has a value of \$100,000 or more Consultant hereby (i) represents that it does not boycott Israel, and (ii) subject to or as otherwise required by applicable federal law, including without limitation 50 U.S.C. Section 4607, agrees it will not boycott Israel during the term of the Contract. As used in the immediately preceding sentence, "boycott Israel" shall have the meaning given such term in Section 2271.001, Texas Government Code.

B. Consultant further represents that (i) it does not engage in business with Iran, Sudan, or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.

C. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the Consultant employs at least ten (10) fulltime employees and this Contract has a value of at least \$100,000 that is paid wholly or partly from public funds of the governmental entity, the Consultant represents that:

- (1) the Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) the Consultant will not discriminate during the term of the contract against a firearm entity or firearm trade association.

D. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the Consultant is a company with at least ten (10) or more full-time employees and this Contract has a value of at least \$100,000 or more that is wholly or partly from public funds of the governmental entity, the Consultant represents that:

- (1) the Consultant does not boycott energy companies; and
- (2) the Consultant will not boycott energy companies during the term of the Contract.

23. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

24. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

25. CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

26. SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties and their respective administrators, successors and, except as otherwise provided in this Contract, their assigns.

27. ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

EXECUTED this the ____ day of _____, 20__, by City, signing by and through its City Manager, duly authorized to execute same, and by Consultant.

CITY OF MESQUITE

(CITY)

By: _____
Cliff Keheley, City Manager

ATTEST:

By: _____
Sonja Land, City Secretary

APPROVED AS TO FORM:

David L. Paschall, City Attorney

By: _____
Assistant City Attorney

(CONSULTANT)

By: _____

Acknowledgment

State of _____, County of _____: Before me the undersigned authority on this day personally appeared _____ known to be the person whose name is subscribed to the foregoing document and known to me to be the _____, and acknowledged to me that he/she executed said document with full authority to do so and for the purposes and consideration expressed therein. Given under my hand and seal of office the ____ day of _____, 20__.

Notary Public in and for the State of _____

EXHIBIT A
City of Mesquite Scope of Services

The scope of services, focused on the formation and implementation of tactical economic development strategies, will at a minimum include the following:

- A. Decision-Making Coordination:** Consultant will partner with the City to provide facilitatory and technical support. The City will render all final decisions in preparation and adoption of the Downtown Overlay Ordinance. Consultant will provide regular staff reports and hold periodic meetings with the Director of Economic Development, Director of Planning and Development Services, and the Downtown Development Manager.

- B. Downtown Development Approach:** Consultant will incorporate the development strategies thus far identified by the Downtown Development Program.

- C. Stakeholder Engagement and Visioning:** Working with Economic Development staff and the Mesquite Downtown Development Advisory Board, the Consultant will formulate and execute a modern and inclusive public and private stakeholder engagement strategy. Techniques may include group stakeholder meetings, individual interviews, and/or surveys. The strategy should identify the purpose of each identified stakeholder/stakeholder group.

- D. Downtown Overlay Ordinance Recommendations and Mapping:** Produce a map that suggest overlay zone(s) and bullet-point narrative support for the suggestions.

- E. Write the Ordinance**

- F. Implementation Strategy:** Produce a strategy for implementation of the Downtown Overlay Ordinance.

- G. Final Product:** The Consultant will produce a draft and then a final product that includes all minimum elements outlined in the scope of services. The content shall reflect best practices for guiding appropriate design, adaptive reuse, infill, new construction, and occupancy standards. Firm will present the final product to the City and the City Council. The Consultant will provide ____ number of bound paper copies, a PDF, and separate electronic files of all documents.

Exhibit B
City of Mesquite Minimum Insurance Requirements

Exhibit C
City of Mesquite's RFP No. 2023-056
(on file at the City of Mesquite Purchasing Division)

Exhibit D
Consultant's Response to City of Mesquite RFP 2023-056

TO THE PROPOSER

DID YOU REMEMBER TO:

- Abide by the General and Special Conditions
- Make note of the opening date and time. All bids must be submitted by 2:00 p.m. Bids received after 2:00 p.m. will not be accepted.
- Fill in the **bid purchase price** on your bid proposal.
- Fill in the **total amount**.
- Fill in the terms, if requested.
- Acknowledge receipt of all addendums.
- Fill in the **delivery time** or the **calendar days** (if applicable).
- Fill in the **company name, address, and phone number**.
- **Sign bid proposal**.
- Include on the front of your sealed envelope the following information: **Company name, address, bid proposal number, opening date and time**.

Mailing Address:

City of Mesquite
P.O. Box 850137
Mesquite, TX 75185-0137

Purchasing Office
972-216-6201
purchasing@cityofmesquite.com

If the procedures are not followed, your bid could be disqualified.

Thank you

Ryan Williams
Manager of Purchasing

If the procedures are not followed, your proposal could be disqualified.

Physical Address:

City of Mesquite
757 N. Galloway Avenue
Mesquite, TX 75149