



**REQUEST FOR QUALIFICATIONS (RFQ) NO. 2023-063
FOR
CITY OF MESQUITE, TX**

CLOSING DATE AND TIME: MARCH 2, 2023 2:00 P.M.

HOUSING STUDY ASSESSMENT

A pre-submittal conference will be held at 9:00 a.m. on Wednesday, February 22, 2023 in the Planning Conference Room located on the first floor of The City of Mesquite Municipal Center, 1515 N. Galloway Avenue.

GENERAL CLAUSES AND CONDITIONS

1. If you have questions regarding the preparation of your response, you may contact Ryan Williams, Manager of Purchasing, at 972-216-6201 or email at purchasing@cityofmesquite.com.
2. Respondents who do not respond to this particular request, but who want to remain on our mailing list for future opportunities shall indicate "NO RESPONSE" on the face of this page authorized representative of your company date, sign, 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 at all times 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. Submit one (1) **original** and one (1) **complete** copy of the entire Response with one (1) complete consolidated **electronic** copy of files in PDF format on a flash drive. Responses must be received prior to the closing date and time to be considered. Responses 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 RFQ. The City of Mesquite will not be responsible for mail delivered from the post office. Responses received after the published time and date cannot be considered and will be returned unopened.
6. Responses will be received and publicly acknowledged at the location, date and time stated above. Only the name of the respondents responding to this request for qualifications shall be released at the response opening. Other information submitted by the respondent 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 respondent, be released.
7. Respondent shall attach official documentation from the State of Texas or other qualified certification agency of M/WBE status of your company with bid/proposal. This data is for informational purposes only and will not affect the award.
8. A completed W-9 form will be required and submitted with bid.

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 response.
11. A representative of the responding entity who is authorized to enter into contract on behalf of the responding entity must manually sign the response in ink. The person signing the response must indicate his/her title along with signature. Responses received without proper signature will not be considered.
12. Any ambiguity in the response as a result of omission, error, lack of clarity or noncompliance by the respondent 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 responses, waive formalities and to make award to the most highly qualified provider of services on the basis of demonstrated competence and qualifications with whom the City is able to negotiate a satisfactory contract at a fair and reasonable price. No response may be withdrawn within forty-five (45) days after date of opening.
14. This Contract may be terminated at any time with thirty-(30) day's written notice by either the City of Mesquite or successful respondent.
15. The City is not liable for any cost incurred by Respondents in replying to this RFQ. This includes costs to determine the nature of the response, submitting, negotiating, presentations or any other costs a vendor would incur in responding to the RFQ.
16. Respondents shall complete all information requested and blanks provided shall be filled in on the provided forms.
17. **The City is exempt from all sales and excise taxes.**
18. It shall be understood all responses, inquires or correspondence relating to or in reference to this RFQ, and all reports, charges and responses or referencing information submitted in response to this RFQ 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.
19. All restrictions on the use of data contained within a response and all confidential information must be clearly stated in the RFQ. Proprietary information submitted in response to the RFQ, will be handled in accordance with the Texas Open Records Law and other applicable state statutes.
20. It is the vendor's responsibility to check for any addenda that might have been issued before the proposal closing date and time.

21. The response evaluation process will occur after the closing date. The City will first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications based on the responses to this RFQ; and then attempt to negotiate with that provider a contract at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider of requested services, the City shall: (1) formally end negotiations with that provider; (2) select the next most highly qualified provider; and (3) attempt to negotiate a contract with the provider at a fair and reasonable price. If necessary, the City will continue the process of formally ending negotiations with one provider and selecting another provider for negotiations until a contract is obtained.
22. The insurance requirements are included in this document. Respondents agree to provide and to maintain the required types of insurance for the term of the contract. An original certificate of insurance will be required within 10 business days prior to the execution of the contract.
23. The Contract is included for respondent's information so that respondents may be familiar with their contents and requirements. **Respondent shall not fill in or execute these forms at time of proposal submittal.**
24. Submissions that are incomplete or do not comply with mandatory submission requirements shall be rejected. In addition, the City of Mesquite reserves the right to reject in whole or in part any responses submitted, and to waive minor technicalities when in the best interest of the City. Responses may be disqualified for any of, but not limited to, the following reasons:
 - Collusion among respondents;
 - Failure to comply with or inclusion of terms and conditions in conflict with, the terms of this RFQ, or City of Mesquite procurement rules and procedures;
 - Failure to meet minimum response requirements established in the RFQ.

SPECIAL PROVISIONS

1. The successful respondent'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 responses must be clearly shown with complete information provided by the respondent. 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 information and negotiate all elements which comprise the Vendor's response 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. Services or products under the Contract Documents shall not be performed or manufactured by any worker who is not legally eligible to perform such services or employment.
7. All questions must be submitted via email only by **12:00 Noon CST Friday, February 24, 2023** to Ryan Williams, Manager of Purchasing at purchasing@cityofmesquite.com.
8. Respondents shall submit a total of five (5) professional references.
9. Respondents shall fill out the following required documents. If the following forms are not included, the response may be considered non-responsive.

Check List:

- Conflict of Interest Questionnaire
- Non-Exclusion Affidavit for General Contractors
- Prohibition on Contracts with Companies Boycotting Israel – House Bill 89
- References
- IRS W-9
- Contractor's Signature Page
- Secretary of State Certificate of Filing (SOS) /Partnership Agreement

I. GENERAL INFORMATION

The City of Mesquite (“City”) is soliciting statements of qualifications for experienced respondents for housing study assessment, pursuant to applicable sections of the Texas Local Government Code, in accordance with the terms, conditions, and requirements set forth in this Request for Qualifications (“RFQ”).

II. SCOPE OF WORK

**Housing Study Assessment
City of Mesquite
Cliff Keheley, City Manager**

Key elements of the scope of work will include, but not be limited to:

Economic/Demographic Profile, Housing Demand Factors, and Current Consumption

1. Regional Considerations
 - a. Consideration of employment and commuter patterns in the region
 - b. Consideration of Mesquite’s competitive position for housing in the region
2. Review of Socio-demographic Trends
 - a. Population growth trends
 - b. Market area demographic data
 - c. Economic and employment factors
 - d. Current and future housing needs of major employers in the area
3. Review of characteristics that support housing and attract residents
 - a. Shopping and entertainment services
 - b. Education facilities and services
 - c. Parks, recreation, and community facilities
 - d. Access to health care
 - e. Safety
 - f. Other quality of life factors and opportunities
4. Document the extent of housing cost burden
5. Document characteristics and trends of seniors and retiree populations
6. Document characteristics and trends of young professionals and post-graduate populations

Assessment of Current Housing Supply

1. Existing housing stock characteristics – owner occupied and rental – to include assessment of condition of multifamily and single-family properties
2. Analysis of existing housing market performance – owner occupied and rental

- a. Sales volume trends
- b. Price and lease rate trends
- c. Rental housing occupancy and turnover trends
- d. Buyer/renter profiles for different housing types and price points
3. Analysis of existing age-restricted and retiree-targeted supply characteristics (excluding assisted living and skilled nursing facilities)
4. Assessment of active and planned housing developments
5. Analysis of existing housing options for young professionals and post-graduates who are not in home-ownership market

Assessment of Development Environment

1. Investigate factors facilitating or impeding housing development or that raise housing costs
2. Analyze the general development environment

Demand/Supply Gap Analysis and Recommendations

1. Projections of household and employment growth
2. Evaluation of latent demand for move-up and luxury homes and causes of any such demand
3. Estimates of demand for entry-level single-family and moderate-density housing products
4. Estimates of demand for apartments and other rental units to include “missing middle” housing types.
5. Demand for housing in and around Mesquite’s downtown
6. Housing price ranges and rental rates deemed market-supportable and attainable for the workforce
7. Demand for senior/retiree housing, including demand for age-restricted housing options
8. Area City (Forney, Garland, Rockwall, Rowlett, Blach Springs, East Dallas etc.) and benchmarking analysis for home pricing, size, supply, etc.
9. Identification of key factors to mitigate supply/demand gaps
10. Strategic long term and short-term recommendations for policies, incentives, investments, programs, and partnerships covering various sectors in the local housing market

Deliverables

1. Final report presentation to the City Council
2. Final report and any associated documents on a flash drive in an editable format.
3. Two hard copies of a final report and any associated documents.

To prepare for any subsequent negotiations, should your firm be selected, please be aware that the City will require a fixed fee; strike provisions for arbitration from all contracts; and not accept cost multipliers for special services and reimbursable expenses.

Time Schedule:

Prefer to commence the process as soon as possible with completion by fall of 2023.

Provide a schedule illustrating current and anticipated work/projects currently underway by your firm.

III. SELECTION PROCESS

City Staff will analyze and evaluate the Statements of Qualification (SOQ). Based on the evaluation criteria established for the project; a shortlist of candidates will be developed. The RFQ provides information necessary to prepare and submit qualifications for consideration and ranking. Based on this ranking, Staff will select the appropriate number of top ranked respondents. It may be necessary to interview several top respondents. The highest ranked firm, representing the most highly qualified provider of the needed services based on demonstrated competence and qualifications will be asked to submit a fee proposal to begin contract negotiations. In the event that Staff fail to reach a final contract with that firm, Staff will continue negotiations with the next most highly qualified firm and will continue with one of the other firms until the selected vendor is awarded the negotiated contract. Upon completion of the negotiations, separate contracts shall be executed by the governing body of the City of Mesquite in a form acceptable to each entity.

Acceptance of evaluation methodology: By submitting its Qualifications in response to this RFQ, respondent accepts the evaluation process as outlined in Section IV and acknowledges, and accepts that determination of the “most qualified” firm may require subjective judgments by City Staff.

Public information: All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act after the solicitation is completed and contract executed with the selected firm.

Firms associating with other firms is encouraged in order to bring specific expertise and experience to the project.

IV. REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS

Respondents shall carefully read the information in the following evaluation criteria and submit a complete statement of qualifications to all questions in this section formatted as directed in the section formatted as directed below. All sections should have tab dividers.

RFQ 2023-063 EVALUATION SCORING MATRIX			
<u>An evaluation team consisting of City staff shall review the information provided and score the information using the following:</u>			
<u>SELECTION CRITERIA:</u>			
	<u>POINTS</u>		<u>SCORE</u>
<u>1. QUALIFICATIONS OF THE RESPONDING FIRM AND EXPERIENCE</u>	<u>40</u>		<u>=</u>
<p><i>Evaluation of qualifications is based on the Consultant's:</i></p> <ul style="list-style-type: none"> • Capability to provide the requested services • Number of appropriate staff in local office • Available in-house services • Location of office with respect to Mesquite • Access to necessary sub-consultants <p><i>The Consultant should demonstrate experience with, and an understanding of the specifics and critical factors related to the Project type. Evaluation is based on experience with projects of similar type, cost, and complexity.</i></p>			
<u>2. PROPOSED PROJECT STAFF</u>	<u>20</u>		<u>=</u>
<p><i>The Consultant should provide the name and qualifications of the key staff that will be involved in the project. Evaluation is based on their specialty and depth of experience with similar type projects. They need to demonstrate creativity and ability to perform their assigned responsibility in a timely manner and within budget.</i></p>			
<u>3. SCHEDULE</u>	<u>20</u>		<u>=</u>
<p><i>Response should provide enough detail to confirm an ability to consistently and reasonably meet project schedule and that the City deadline can be reasonably met</i></p>			
<u>4. REFERENCES</u>	<u>20</u>		<u>=</u>
<p><i>The evaluation is based on information provided from the references provided, including their experience with the firm or staff, its customer service, its ability to delivery on time and within budget, and overall satisfaction.</i></p>			
<u>TOTAL POSSIBLE SCORE</u>	<u>100</u>		<u>=</u>

1. QUALIFICATIONS OF THE RESPONDING FIRM AND EXPERIENCE: (40 Points)

The overall qualifications, experience, and reputation of the firm to provide the services sought in this RFQ. This category includes but is not limited to the Respondent's:

- Experience, reputation, and demonstrated competence on projects of similar scope and complexity;
- Experience with municipal clients;

- Availability to respond to the needs of the City of Mesquite in a timely manner; ability to relate to project requirements;
- Level of conflict of interest between the Respondent and the City of Mesquite.

2. PROPOSED PROJECT STAFF: (20 Points)

Provide a statement that summarizes the proposed key personnel who will be directly assigned to primary areas, the qualifications and related experience of each member, and designate the location and employment of each team member (e.g. company employee, sub-consultant employee, contract employee, etc.). Include an organizational chart. Respondent must be registered or have personnel on their direct staffs that are registered in the professional services discipline required to perform the services requested. If sub-consultants are included to assemble a project team, their qualifications and experience of proposed key personnel should be described with respect to the relevant category or subcategory of work.

One person shall be designated as the primary contact for the City of Mesquite throughout the contract term. The Respondent agrees that the primary contact assigned shall remain available for the entirety of the term as long as that individual is employed by the Respondent or unless the City of Mesquite agrees to a change in the key personnel.

3. SCHEDULE: (20 Points)

This section should provide enough detail to confirm the firm’s ability to consistently and reasonably meet project schedule milestones and that the City deadline can be reasonably met.

The response should include a proposed schedule for this project, as well as examples of the firm’s proposed and actual schedule for completed projects of similar type, cost, and complexity.

- 4. REFERENCES: (20 Points)** The responding firm shall provide five (5) references who can be contacted regarding the firm’s performance on a project of similar nature.

V. SUBMITTALS

Respondents must provide the following information in their submission in order to be considered responsive.

Elaborate covers, binding, dividers and other are not required, nor desired. Extensive marketing materials are not desired.

Submissions should give the full firm name, delivery address, and contact information of Respondent. The person signing the submission should show title and authority to bind his/her firm in future contract.

Each Respondent should submit a letter of transmittal, limited to two pages, that includes:

- A brief statement of the Respondent’s understanding of the scope of work;
- The names, titles, mailing and email addresses, and telephone numbers of the individuals who are authorized to make representations on behalf of the Respondent;
- A statement that the person signing the transmittal letter is authorized to legally bind the Respondent;
- Identification of a single point of contact to respond to any questions regarding the submission.

Each Respondent shall submit a brief overview of the firm and identify the project team to be assigned, along with each team member's credentials. The summary should include an overview of the firm, corporation, partnership, and provide a brief overview of each of the firms, corporations, partnerships or other to whom the Respondent intends to subcontract any portions of the work and are the project team members. On one page, list the team member firms, including the lead firm, and a simple organizational chart of the team, showing the reporting structure of the people proposed to do the work.

Respondents shall present information to demonstrate financial stability and performance, and firm history.

Respondents shall submit:

- Name and address of business entity submitting the response.
- Name and location of major offices and other facilities that relate to the Respondent's performance under the terms of the submission.
- Name, business addresses, business and fax telephone numbers and email addresses of the proposed principal contact person regarding all contractual matters relating to the RFQ.
- Pertinent information relating to the Respondent's organization and experience, competence, reputation and capability in performing housing studies similar to the scope of this project.
- Statement outlining each project team member's experience in projects of similar type and scope, specifically regarding housing studies.
- Statement regarding prior business with the City of Mesquite, listing the project(s).
- Statement relating to existing facilities owned or business operations that present a potential conflict of interest with this project and the City of Mesquite.
- Length of time in business.
- The Respondent shall provide, on three pages or less, a narrative that describes:
 - Team's track record of meeting deadlines and working within a budget;
 - Team's systems and processes for ensuring quality and timely performance on similar projects;
 - Team's working relationship, including background information on key personnel and the roles and responsibilities;
 - Team's specific experience delivering housing studies;
 - Each Respondent shall provide examples of challenges to schedule and methods taken to meet the project schedule.
- Each Respondent must provide no less than five (5) client references for similar projects. In at least three of those projects, the Respondent should have served as project lead within the last eight years. The list of clients must include the following information:
 - Project name and location;
 - Name and address of client;
 - Name and current phone number of client contact who was directly involved with the project;
 - Contract start date and duration;
 - Type and size of contract;
 - Firm's role in project;
 - Number of staff by position participating in the study.

These references will be contacted and used in conjunction with the evaluation of the submissions.

VI. ADDITIONAL INFORMATION TO BE INCLUDED IN STATEMENT OF QUALIFICATIONS

- The City of Mesquite requires professional liability insurance for firms with which it contracts. Please state what coverages your firm carries and in what amounts.
- Identify firm's executives who have current claims or who have participated in litigation against the City of Mesquite while with another firm. Firms currently under litigation with the City or whose executives have been in litigation with the City may not be considered for this project.
- It will be incumbent on those persons or firms with persons, having potential conflicts of interest to identify and cure such conflict(s) prior to consideration of the work. Failure to identify such conflict may remove that person or firm from further consideration.
- Provide any brochures or other marketing literature you wish to include in your submittal.

VII. DUE DATE AND CONTACT

One (1) original, one (1) copy, and one (1) electronic copy of the Statement of Qualifications are required.
STATEMENTS OF QUALIFICATIONS are to be delivered by **2:00 P.M. on Thursday, March 2, 2023**, to:

Ryan Williams
Manager of Purchasing
City of Mesquite
757 N. Galloway Avenue
Mesquite, Texas 75149

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 don't 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 2270, as amended by House Bill 793, 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 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

INSURANCE VERIFICATION PROGRAM LETTER OF AUTHORITY

TO: All Awarded Vendors

RE: Insurance Verification

Dear Vendor:

The City of Mesquite has provided Insurance Certificate Administrators (ICA) authority to monitor certificates of insurance, endorsements and other policy information from our vendors and contractors. ICA will request, receive, evaluate and order corrections from such companies.

ICA will provide the City of Mesquite with verification that any insurance document your agent or insurer certifies conforms to the contract requirements.

It is necessary that you have your agent or insurer promptly cooperate with ICA by having them provide the information ICA requests.

All correspondence regarding certificates of insurance and insurance policy information for the City of Mesquite should be sent to the following address. There is no need to provide copies to the City of Mesquite.

City of Mesquite
c/o ICA
input@icaprogram.com
P.O. Box 2566
Fort Worth, TX 76113-2566
Phone: 817-332-5313

Please forward the enclosed instructions to your agent/broker. Thank you for your cooperation.

INSURANCE

A. AMOUNTS OF INSURANCE

Contractor agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract.

<u>Type</u>	<u>Amount</u>
1. <u>Worker’s Compensation</u> and <u>Employer’s Liability</u>	<u>Statutory Limits</u> \$100,000 per occurrence
2. <u>Commercial (Public Liability)</u> <u>including but not limited to:</u>	<u>Bodily Injury:</u> \$500,000 per person \$1,000,000 per occurrence and
A. Premises/Operations	
B. Independent Contractors	
C. Personal Injury	<u>Property Damage:</u>
D. Products/Complete Operations	\$500,000 per occurrence
E. Contractual Liability (insuring above indemnity provisions)	with <u>general aggregate</u> of \$1,000,000
3. <u>Business (Commercial)</u> <u>Automobile Policy:</u>	Combined Single Limit/ \$500,000

The preceding amounts notwithstanding, the City reserves the right to increase the minimum required insurance to be effective thirty (30) days after notice is sent to the address provided herein. The Contractor may pass through to the City all costs for obtaining the increase in the insurance coverage.

B. OTHER INSURANCE REQUIREMENTS

The Contractor understands that it is its sole responsibility to provide the required Certificate and that failure to comply within 10 business days after notice of award and according to the requirements of this article shall be a cause for termination of this Contract.

For any pesticide spraying performed, the City of Mesquite will require the successful bidder to carry Pollution Liability Insurance and Environmental Impairment Liability Insurance.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney’s office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City, as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

The Contractor further agrees that with respect to the above required insurances, the City shall:

1. Be named as additional insured/or an insured, on all required insurance except workers' compensation. Blanket Endorsements are acceptable in meeting this requirement if copies of the endorsements are provided along with the certificate. If using a form that has specific boxes labeled for additional insured, checking those specific boxes is acceptable in meeting this requirement as well.
2. Be provided with a waiver of subrogation, in favor of the City on all required insurance. Blanket Endorsements are acceptable in meeting this requirement if copies of the endorsements are provided along with the certificate. If using a form that has specific boxes labeled for waiver of subrogation, checking those specific boxes is acceptable in meeting this requirement as well.
3. Be provided with an unconditional 30 days' advance written notice of cancellation or material change.
4. Prior to execution of this Agreement, proof of insurance shall be provided through the office of the City Secretary, or Designee, with either their original Certificate of Insurance or their insurance policy evidencing the above requirements. Thereafter, new certificates or copies of the policies shall be furnished prior to the expiration date of any prior certificate.

C. ADDITIONAL WORKER'S COMPENSATION INSURANCE REQUIREMENTS

1. Definitions:
Certificate of coverage ("certificate") A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement showing statutory Worker's Compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractors'/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project (subcontractor" in 406.096) - includes all persons or entitles performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity or employees of any entity, which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
2. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements. Which meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all employees of the contractor providing services on the project, for the duration of the project.
3. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

4. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
5. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (a) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage for all persons providing services on the project; and
 - (b) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
6. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

REFERENCES

Five (5) Professional References (Include: Names, Addresses, Contact Email Address, Phone No's., Dates, Work Description and Contract Amounts.)

1. _____

2. _____

3. _____

4. _____

5. _____

CONTRACTOR'S SIGNATURE PAGE

HOUSING STUDY ASSESSMENT

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

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

Signature

Type/Print Name

Title

Date

NOTICE

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

CITY OF 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."

WITNESSETH:

WHEREAS The City desires to obtain services relative to performing data analysis specific to a project described in more detail in the attached exhibit(s); and

WHEREAS Consultant can provide such services and is the business of and has the expertise, experience, resources, licenses, and capability to perform said services as described in the attached specifications; and

WHEREAS Consultant will handle such service delivery within all local, state, and federal laws; and

WHEREAS Consultant is willing to undertake such services for City in exchange for the consideration hereinafter specified.

NOW, THEREFORE, for and in consideration of the covenants and agreements hereinafter contained, the parties hereto do mutually agree as follows:

1. PURPOSE

The purpose of this Contract is to state the terms and conditions under which Consultant shall provide a housing study 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. _____

Housing Study Assessment

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

The City reserves the right to terminate this Contract upon breach of any term or provision hereof by Consultant. A breach of this Contract shall include, but not be limited to, a failure to commence work in accordance with the provisions of this Contract, a failure to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or a failure to use an adequate number or quality personnel to complete the work or fail to perform any of its obligations under this Contract. The City shall have the right, if Consultant shall not cure such default after ten (10) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other parties, therefore. Any such act by the City shall not be deemed a waiver of any other right or remedy of the City.

18. 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 _____
City of Mesquite
1515 North Galloway Avenue,
Mesquite, Texas 75149

If intended for Consultant, to:

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. SEVERABILITY

If any of the terms, provisions, covenants, conditions, or any other part of this Contract are held for any reason to be invalid, void, or unenforceable, the remainder of the terms, provisions, covenants, conditions, or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

25. REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provide or permitted, but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

(Remainder of page intentionally left blank – Signatures on following page.)

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

(CONSULTANT)

By: _____

ATTEST:

By: _____
Sonja Land, City Secretary

APPROVED AS TO FORM:
David L. Paschall, City Attorney

By: _____
Assistant City Attorney

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 _____