REQUEST FOR PROPOSALS (RFP) NO. 2018-084

CLOSING DATE AND TIME: JULY 11, 2018 - 2:00 P.M.

DEDICATED INTERNET ACCESS

PROPOSALS SHALL BE SUBMITTED ON THIS FORM

The City of Mesquite, Texas invites sealed proposals from all qualified vendors desiring to furnish the City with the Dedicated Internet Access, complying with the following specifications as listed herein.

A pre-proposal tele-conference will be held at 10:00 a.m. on Monday, July 2, 2018 for any questions regarding this RFP.

Dial-in Number: 701-801-1211
Access Code: 654-037-907

A sealed copy of the bid proposal may be submitted by courier or hand delivered to Ryan Williams, Manager of Purchasing, City of Mesquite, 1515 N. Galloway, Mesquite, Texas 75149. Proposals may also be mailed to Ryan Williams, Manager of Purchasing, City of Mesquite, P.O. Box 850137, Mesquite, Texas 75185-0137. Mark envelope in lower left corner “RFP No. 2018-084; Dedicated Internet Access,” so that the proposals will not be opened until the appointed hour. Proposals may also be submitted by courier, hand delivered in a sealed envelope or box to Ryan Williams, Manager of Purchasing, City of Mesquite, 1515 N. Galloway Avenue, Mesquite, Texas 75149. Proposals submitted must be received before proposal closing on Thursday, July 11, 2018 at 2:00 p.m. Faxed bid 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 particular 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, 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 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. Proposals must be received as one (1) and four (4) copies on this form, 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 bid/proposal. This data is for informational purposes only and will not affect the bid proposal award.

8. A completed W-9 form will be required within five business days by the apparent low proposer once notification has been received.

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 bid 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. The prices quoted in this bid proposal shall be F.O.B. Mesquite, 757 N. Galloway Avenue, TX 75149.

13. Any ambiguity in the bid 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.

14. The City of Mesquite reserves the right to reject any and all proposals, waive formalities and to make award of bid 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.

15. This Contract may be terminated at any time with thirty-(30) day’s written notice by either the City of Mesquite or successful proposer.
16. 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.

17. 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 bid proposal.

18. The City is exempt from all sales and excise taxes.

19. 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.

20. 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. 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.

21. 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.

22. Quantities are estimated and based on projected usage. It is specifically understood and agreed that these quantities are approximate and any increased quantities will be paid at the regular quoted price. The contractor shall not have any claim against the City of Mesquite for any quantities ordered that are less than the estimated bid proposal amount.

23. It is the vendor’s responsibility to check for any addendums that might have been issued before the proposal closing date and time.

24. 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.

25. 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.
26. Price quoted shall prevail for the entire term of the contract; one (1) year starting after proposal is awarded by City Council to the successful proposer. A renewal option is included as a part of this proposal for an additional two (2) one-year periods, renewable on anniversary of the original date, provided proposer can maintain proposal prices and both parties are in mutual agreement.

27. The insurance requirements are included in the proposal document. Proposers 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 by the apparent low proposer once notification has been received.
SPECIAL PROVISIONS

1. **Price escalation:** The City of Mesquite favors fixed pricing. However, due to market conditions, which may result in an increase in the costs of materials awarded by this contract during the contract term, the City may consider, at its option, a request by the successful Proposer for a price escalation equivalent to the percentage increase of materials. Price escalation will be made under the following conditions: 1) no request for a price escalation will be considered for the first year of the contract period; 2) Contractor will be required to provide written confirmation from his supplier indicating the exact percentage of increase as well as the effective date of the escalation; 3) The City reserves the right to accept or reject the price increase; and 4) If the price increase is rejected, the Contractor shall provide the materials at the contracted price or may cancel the contract for the remaining term.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. All questions must be submitted via fax or email by **3:00 p.m. on Tuesday, July 3, 2018** to Ryan Williams, Manager of Purchasing @ purchasing@cityofmesquite.com prior to proposal closing date.

8. Proposers shall submit five (5) references.

9. Proposers shall fill out the following required documents, as noted in the bid proposal. If the following forms are not included, the bid 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 - House Bill 89 Form
   - References
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/conflict_forms.htm

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

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-e) 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.

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

Form provided by Texas Ethics Commission

www.ethics.state.tx.us

Revised 11/30/2015
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 to 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
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 cooper
**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.

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

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 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 entities 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 contract 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.
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)
House Bill 89, effective September 1, 2017, amended the Texas Government Code to add Chapter 2270, Prohibition on Contracts with Companies Boycotting Israel. Effective September 1, 2017, a state agency and a political subdivision (which includes a city) may not enter a contract with a company for goods or services unless the contract contains a written verification from the company that; (i) it 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 sole proprietorship, 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.

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 (as that term is defined in Texas Government Code Section 808.001) during the term of this contract.

_________________________________________
Signature of Certifying Official

_________________________________________
Title

_________________________________________
Date of Certification
**PROPOSAL EVALUATION**

RFP shall be awarded to the best-quoted proposal. The proposals will be evaluated on the factors outlined below which shall be applied to all eligible, responsive proposals in selecting the successful offerer. 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 specification of this Proposal Invitation before submitting proposals. Failure to do so will be at the proposers own risk.

**CRITERIA FOR EVALUATION IN ORDER OF IMPORTANCE:**

- **Vendor Diversity** 25%
- **Path Diversity** 25%
- **Total Contract Cost** 40%
- **Adherence to specifications** 10%

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.
PROPOSAL INFORMATION

The City of Mesquite, Texas (City) is seeking proposals from qualified Internet Service Providers (ISP) for Dedicated Internet Access (DIA).

Purpose

The City is seeking to increase internet bandwidth to support the continuous growth in the use of online services and improve upon path diversity of our existing internet access.

Existing Service

The City of Mesquite currently has two (2) providers of Dedicated Internet Access service that fulfill its internet access needs at 777 N Galloway Ave, Mesquite, TX 75149. The City has American Registry of Internet Numbers (ARIN) assigned IPV4 and IPV6 IP address space that is globally routed. Dual internet connections serve the entire City of Mesquite across more than 80km of city owned fiber optic network. The network encompasses more than 30 sites and facilities and serves approximately 1000 staff and thousands of public users daily.

The existing DIA services are 100mbps and 250mbps served by two separate BGP peers across diverse technologies each with a copper handoff to a dedicated edge router in our 777 N Galloway Ave Datacenter.

The existing contract for 100mbps Service expires in June 2018.

Service Requirements

The prospective DIA Provider will provide internet service with the following features.

1) 500mbps of bandwidth.
2) Ethernet Copper handoff of circuit.
3) Border Gateway Protocol (BGP) for Internet Protocol version 4 and 6 (IPv4, and IPv6).
4) IP Address Allocation of not less than 16 IPv4 addresses (/28) for failover purposes.
5) Routing Subnet to interconnect edge equipment.
6) Quality of Service Uptime 99.99% per month not including scheduled maintenance
7) Customer Support shall be available 24 hours per day, 365 Days per year with an incident response time of no more than four (4) Hours from initial communication.

Service Location

The new service shall be installed at the City occupied suite at the base of Memorial Tower.

2411 Memorial Blvd
Mesquite, TX 75149

Scheduled Maintenance

The DIA Provider shall provide written or emailed notice of all service affecting maintenance to the designated city staff not less than 24 hours prior to the maintenance occurring.

Pricing

Pricing shall be quoted on a thirty six (36) Month term quoted as a monthly cost.
Questions
Proposers are asked to examine this RFP upon request. All questions or clarifications shall only be directed in writing via fax or e-mail to purchasing@cityofmesquite.com before the designated deadline for written questions. Questions received after the date specified above may not receive response. Any contact or attempt to contact any other employee of the City regarding this RFP may result in the immediate disqualification of the Proposer. Oral and other interpretations or clarifications will be without legal effect. Only questions answered by formal written addenda will be binding.
**TERMINATION FOR DEFAULT**

The City of Mesquite reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of this contract. City of Mesquite reserves the right to terminate the contract immediately in the event the successful proposer fails to:

♦ meet delivery or completion schedules
♦ otherwise perform in accordance with the accepted proposal

Breach of contract or default authorizes the City to award to another proposer, purchase elsewhere, and charge the full increase in cost to the defaulting proposer.

**NON-PERFORMANCE CONDITION**

If the product or training is not in conformance with the specifications and requirements of the City, the vendor shall redo and complete any work necessary, bring the product or training into compliance at the vendor’s expense.
REFERENCES

Five (5) Work References (Include: Names, Addresses, Phone No’s., Dates, Work Description and Contract Amounts.)

1. __________________________________________________________________________________________
   __________________________________________________________________________________________

2. __________________________________________________________________________________________
   __________________________________________________________________________________________

3. __________________________________________________________________________________________
   __________________________________________________________________________________________

4. __________________________________________________________________________________________
   __________________________________________________________________________________________

5. __________________________________________________________________________________________
   __________________________________________________________________________________________
DEDICATED INTERNET ACCESS

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.

______________________________
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.
CONTRACT FOR A DEDICATED INTERNET ACCESS AGREEMENT

This Contract, made and entered into by and between the CITY OF MESQUITE, a municipal corporation, of Dallas County, Texas ("City"), and ______________________, a __________ corporation, qualified to transact business in Texas, with principal offices located at ________________ ("Vendor").

W I T N E S S E T H:

WHEREAS, the City requested competitive sealed proposals for installation and maintenance of a dedicated internet service system ("System"), RFP No. 2018-084, consisting of a minimum of 500mbps of bandwidth and IP Address Allocation of not less than 16 IPv4 addresses for failover purposes, to support the operations of the Information Technology Department of City; and

WHEREAS, it was determined that Vendor was most advantageous proposer, submitting the best and final offer pursuant to the request;

NOW, THEREFORE, the City and Vendor, in consideration of the terms, covenants and conditions herein contained, agree as follows:

1. SUBSCRIPTION

A. Under the terms and conditions of this Contract, Vendor agrees to provide a subscription to City, and City agrees to accept from Vendor on a fully implemented and operational basis, the services of a System, more particularly described in the City's Request for Proposal attached as Exhibit A, and Vendor's Proposal, attached as Exhibit B, each exhibit made a part of this Contract. The System shall perform and conform in every respect to the description in the Vendor's Proposal and to the Service Level Agreement (SLA) requirements, attached as Exhibit C.

B. Vendor agrees to provide to City, only for use in conjunction with the City's System; and at the prices set forth in Section 5 of this Contract the following:

C. For purposes of administering this Contract, City shall be represented by its Director of the Information Technology ("Director"), or the Director's designee; Vendor shall be represented by its ________________________.

D. The System shall perform and conform in every respect to the following documents:

i. City's Request for Proposal, attached as Exhibit A;

ii. Vendor's Proposal, as amended by all Best and Final Offers and Letters of Clarification and Fee Schedule for the System ("Proposal"), attached as Exhibit B; and

iii. Service Level Agreement (SLA) for System, attached as Exhibit C.

E. All of the above instruments are made a part hereof for all purposes as though each were written word for word herein; provided, however, that in case of conflict in the language of the Request for Proposal No. 2018-084 ("RFP"), the Proposal, the SLA, and this Contract, the terms and conditions of this Contract shall be final and binding on both parties hereto, and City's RFP shall control where it is in conflict with the Proposal. Vendor and City further agree that should any dispute or questions arise respecting the true construction or meaning of these documents, the same shall...
be decided by City and such decision shall be binding and conclusive upon Vendor. City shall be both reasonable and
consistent in its construction of the meaning of these documents.

2. DEFINITIONS

A. The term "System" means the services providing access to a Dedicated Internet Access System made
available by Vendor to City, as provided for in City’s RFP and Vendor’s Proposal.

B. The term "Date of Implementation" shall be no later than Sixty (60) working days from the date of Contract execution.

C. The term "Date of Acceptance" shall be the date that City notifies the Vendor in writing that the System has been tested, meets City's specifications, operates in the specified environment, and is reliable in operation.

D. The term "working day" means a weekday, Monday through Friday, excluding City Holidays, which are New Year’s Day, Martin Luther King Day, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day.

3. ON-SITE TEST PERIOD(S) AND ACCEPTANCE TESTING

A. A review of System acceptability of the System shall be conducted subsequent to the City's acceptance of Vendor's certification that the System has been implemented and is ready for acceptance testing.

B. Vendor shall implement the System and upon completion of implementation, notify the City in writing on or before the required Date of Implementation, that the System has been implemented and is in good working order and ready for acceptance testing by the City. For a period of thirty (30) days after the Date of Implementation, the City's personnel shall begin to conduct acceptance testing which shall consist of: (i) testing of System for accuracy; and (ii) testing of System performance rates. If the City's acceptance testing discloses operational deficiencies in the System, the City shall prepare a detailed list of all such deficiencies. During the thirty (30) day acceptance testing period, but not more five (5) working days after the conclusion of the first acceptance test(s) run by the City, the City shall forward to Vendor the detailed list of all deficiencies found in the System and Vendor shall, after receipt of the detailed list of deficiencies, correct all such deficiencies, notify the City that all deficiencies have been corrected, and the City shall begin retesting in the same manner and within the same time frames described above. If at the completion of the acceptance testing the System does not meet performance standards, the City at its sole option may elect one of the following: (i) accept the System; (ii) require further correction of deficiencies and further acceptance testing in accordance with this Section 3 but not to exceed 10 days; (iii) require that Vendor replace any defective or nonconforming components of the System; and (iv) elect to terminate this Contract pursuant to Section 14 hereof.

C. The date that all actual successful testing is complete shall be the Date of Acceptance regardless of the date of receipt of the notice described herein.

D. During the On-Site Test Period(s), the City may make productive use of the System or Systems.

4. CONTRACT TERM

The term of this Contract shall be for a period of thirty-six (36) months, commencing on the Date of Acceptance (the “Term”), subject to the annual appropriation of sufficient funds by City.

5. PRICES AND PAYMENT

The price for the System for the Term of the Contract will be as stated in Best and Final Offer in Exhibit B attached hereto, shall not exceed __________AND 00/100 DOLLARS ($_______.00) for all System access, including setup and
functionality, maintenance with service support and upgrades, data conversion, training and services. This amount shall constitute the limit of City's liability for all payments due or to become due to Vendor under this Contract, unless same shall be amended to increase said limit following City Council or other City authorization. Invoicing and payment for the System shall be made after the Date of Acceptance of the System, and payment for each year of Service shall be paid within 30 days of invoice for the year’s subscription and maintenance services.

6. TAXES

City shall not be responsible for any taxes on any part of the System. The City is a tax-exempt municipal corporation. Upon Vendor’s request, the City shall supply tax exemption certificates to Vendor.

7. TITLE: SYSTEM AND DATA

A. Title to the System remains with Vendor. The City is granted a subscription only to use the System furnished under this Contract. Accordingly, no title to or ownership of the System is transferred to the City.

B. Title to all City Data in the System remains with the City. Upon termination of this Contract, Vendor will deliver all City data and files (including open and closed files and all paper and electronic files) in the System to City in a form useable by the City and/or a successor vendor as soon as reasonably practicable, but not later than five (5) working days following the termination.

8. RISK OF LOSS OR DAMAGE

At all times, all risks of loss of or damage to the System and to City’s Data in the System shall remain with the Vendor.

9. WARRANTIES

Vendor specifies that the Services will meet the performance standards set forth in the SLA. Vendor agrees that during the Term of this Contract the System used by the City under this Contract will be maintained by Vendor so as to conform to the specifications required by the City in its RFP, as described in the Vendor’s Proposal, be in good operating condition, and meet the performance standards required by the SLA.

10. PROPRIETARY INFORMATION

A. Vendor understands and agrees that in the performance of work or services under this Contract, or in contemplation thereof, Vendor may have access to private or confidential information which may be owned or controlled by the City, and that such information may contain proprietary details, disclosures, or sensitive information which disclosure to or use by a third party will be damaging or illegal. Vendor agrees that all information disclosed by the City to Vendor, which is confidential, shall be held in confidence and used only in performance of services under this Contract. Vendor shall exercise the same standard of care to protect such information as is used to protect its own proprietary data.

B. The City understands and agrees that in the performance of work or services under this Contract, or in contemplation thereof, the City may have access to private or confidential information which may be owned or controlled by Vendor, and that such information may contain proprietary details, disclosures, or sensitive information whose disclosure to or use by a third party will be damaging or illegal. The City agrees that all information disclosed by Vendor to the City that is confidential shall be held in confidence and used only in receipt of services under this Contract, except to the extent disclosure is required by law as set forth below. The City shall exercise the same standard of care to protect such information as is used to protect its own proprietary data.

C. Vendor acknowledges that City cannot guarantee that any information received will be kept confidential, and the requirements of this Section are not a basis for excepting information from required public disclosure under the Public...
Information Act, Texas Government Code, Chapter 552 (the “Act”). The Act provides that all information in the possession of a governmental body is generally available to the public, and if the governmental body wishes to withhold information from a member of the public, it must show that the requested information is within one of the exceptions to required public disclosure.

D. Should someone make an open records request, then the City will notify Vendor in writing within 10 business days after receiving the request for the information. Vendor bears the burden of demonstrating to the satisfaction of the Texas Attorney General’s Office that the information relates to a trade secret or is commercial or financial information that, based on specific factual evidence, the disclosure of such would cause substantial competitive harm to the person from whom the information was obtained or is otherwise not subject to disclosure under the Act.

11. PATENTS AND COPYRIGHTS INDEMNITY

Vendor will defend the City against a claim that the System infringes a U.S. patent or copyright, or that the System’s operation pursuant to a current release and modification level by Vendor infringes a U.S. patent or copyright, and Vendor will pay resulting costs, damages and attorney's fees finally awarded. If Vendor defends the City against such claims, the City Attorney of the City shall be kept informed of settlement negotiations and shall execute any settlement agreement reached by Vendor on City's behalf.

12. REMEDIES

Vendor’s entire liability and the City's exclusive remedy shall be as follows:

A. Except as specified in this Section or elsewhere in this Contract, Vendor shall only be liable for any actual direct loss or damage which the Vendor solely and negligently causes that may arise in connection with the furnishing, performance or use by City of the System. Vendor SHALL NOT BE LIABLE FOR ANY OTHER DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. The remedies of City set forth below and under Section 9. "WARRANTIES" and Section 14. “CONTRACT SUSPENSION, TERMINATION, OR COMPLETION CONTRACT TERMINATION” shall be the sole and exclusive remedies of City for any breach of any obligations of Vendor.

B. In all situations involving performance or nonperformance of the System furnished under this Contract, the City's remedy is, in the following sequence, (1) the adjustment or repair of the System by Vendor, and correction of errors, or (2) if, after repeated efforts, Vendor is unable, within a reasonable time, to implement the System or maintain the System in good working order, or to restore it to good working order, all according to City's Specifications in the RFP and as judged by City, the City shall be entitled to terminate this Contract and recover actual damages not to exceed the amounts paid for the System by the City.

C. For any other claim by the City concerning performance or nonperformance by Vendor pursuant to, or related to the subject matter of, this Contract, the City shall be entitled to recover actual direct damages not to exceed the total contract value.

D. If the Systems fails to pass acceptance testing in accordance with Section 3, above, then the City may, at its option, terminate this Contract. If so terminated, Vendor shall be required to return to the City any and all payments made for the System. Vendor's return of all payments to the City shall be the City's exclusive remedy for such failure.

13. INSURANCE

Vendor, at Vendor's sole cost, shall purchase and maintain the minimum insurance, attached to this Contract as Attachment 1, during the Term of this Contract. The cost of all insurance required herein to be secured and maintained
by Vendor shall be borne solely by Vendor, with certificates evidencing such minimum coverage in force to be filed with the City.

14. CONTRACT SUSPENSION, TERMINATION, OR COMPLETION

A. The Director may terminate this Contract for non-appropriation of funds in any given fiscal year, without liability to the City, upon the following conditions: (i) City has taken all actions necessary to obtain adequate appropriations or funding; (ii) despite City's best efforts, funds have not been appropriated and are otherwise unavailable to pay for the Services; and (iii) City has negotiated in good faith with the Vendor to develop revised terms, an alternative payment schedule or a new agreement to accommodate City's budget. Upon termination for non-appropriation, a final accounting will be made of the fees payable to Vendor and any funds belonging to City in possession of Vendor, and any balance due either party will be promptly paid by the debtor party. The Director's good faith determination of the amount due in this regard shall be final and binding between the parties. As the right of City to terminate this Contract for non-appropriation is expressly retained, Vendor shall not be entitled to lost or anticipated profits in the event of the Director's exercise of such right.

B. In the event the Vendor fails to perform any material provision of this Contract, the City shall notify the Vendor of such material breach of the provisions herein. The City shall give the Vendor reasonable time thereafter to cure any such breach. In the event that after reasonable notice and sufficient time to cure, Vendor has not been able to do so, the City shall be entitled to terminate this Contract in accordance with the provisions above.

C. No payment shall be made by City to Vendor for lost or anticipated profits. All data related to this Contract, except Vendor's proprietary data, shall remain the property of City during the term of this Contract and continue to be property of the City upon completion of this Contract.

D. Nothing herein shall deprive either party of its right to terminate this Contract for breach of same by the breaching party and the non-breaching party retains its right to any and all remedies it may have, at law or at equity, to strictly enforce the terms of this Contract, including, but not limited to, its right to seek specific performance of the terms hereof.

E. In case of any default by a party that has not been corrected, the non-defaulting party shall notify the defaulting party in writing of same. If the defaulting party does not remedy the default within the time period set forth in said notice, the non-defaulting party may terminate this Contract for cause and/or pursue any legal remedy it may have against such defaulting party.

15. INDEMNITY

Vendor 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 Vendor's breach of any of the terms or provisions of this Contract, or by any other negligent or strictly liable act or omission of Vendor, its officers, agents, employees or subcontractors, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of City, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence or fault of the Vendor and the City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. Further, Vendor agrees to indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, cost and expenses for any and all violations of state or federal law or regulation related to data privacy and security applicable to protection of the data in the System, as well as all costs associated with notifying individuals of a breach of the System, rectifying any breach of security data in the System, or providing damages to any such individual whose private information was breached in the System. The
provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

16. APPLICABLE LAW AND VENUE

A. This Contract is entered into subject to the Charter and Ordinances of the City of Mesquite, as amended and applicable Federal and Texas State laws. The provisions of this Contract shall be construed in accordance with the laws and court decisions of the State of Texas; and exclusive venue for any litigation that may be filed by either party hereto in connection with this Contract shall be in Dallas County, Texas.

B. No action, regardless of form, arising out of this Contract may be brought by either party more than two years after the cause of action has arisen, or, in the case of an action for nonpayment, more than two years from the date the last payment was due.

17. ASSIGNMENT

This Contract shall be deemed personal to Vendor and in no event shall be sublet or assigned without written approval of City’s Director.

18. RIGHT OF REVIEW; INDEPENDENT CONTRACTOR

Vendor agrees that City may review any and all work performed by Vendor on this project. The relationship of Vendor to City is that of Independent Contractor.

19. EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

Vendor, in the execution of this Contract and particularly in the employment practices engaged in, agrees that it will not discriminate on the basis of race, color, religion, national origin, sex, age, handicap, or disability.

20. CONFLICT OF INTEREST

Vendor shall comply with Chapter 176 of the Texas Local Government Code (hereinafter referred to as “Chapter 176”) requiring any person who contracts or seeks to contract with City to disclose potential conflicts of interest as defined in Chapter 176 by completing the attached Conflict of Interest Questionnaire and returning same to City in accordance with Chapter 176. Additionally, 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. Vendor shall comply with the requirements of Section 2252.908. Further information regarding the disclosure of interested parties law and instructions on filing 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

Failure to comply with Chapter 176 and Section 2252.908 may result in: (i) the forfeiture by Vendor of all benefits of this Contract; (ii) the retainage by City of all services performed by Vendor; and (iii) the recovery by City of all consideration, or the value of all consideration, paid to Vendor pursuant to this Contract.

21. NOTICES

All written notices and correspondence given to City by Vendor shall be mailed or delivered as follows:


28
22. FINANCIAL INTEREST & GIFT TO PUBLIC SERVANT PROHIBITED

A. Vendor understands that the Charter of the City of Mesquite provides that no officer or employee of the City shall have any financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this prohibition shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position with the City. Any violation of this prohibition, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

B. City may terminate this Contract immediately if Vendor 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 Vendor to remove any employee of the Vendor from this project who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made to as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

23. MISCELLANEOUS

A. Pursuant to Section 2270.002, Texas Government Code, the Vendor 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 Agreement. As used in the immediately preceding sentence, “boycott Israel” shall have the meaning given such term in Section 2270.001, Texas Government Code.

B. Vendor 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.

24. MODIFICATIONS OR AMENDMENTS

This Contract can only be modified by written agreement duly signed by persons authorized to sign agreements on behalf of the City and of Vendor. Oral modifications shall not be permitted.
25. **SEVERABILITY**

If any provision or provisions of this Contract shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

26. **DELAYS OR FORCE MAJEURE**

Neither Vendor nor the City is responsible for delay in fulfilling its obligations under this Contract due to causes beyond its control. However, in the event of such delays, prompt notice shall be furnished, and the party so delayed shall undertake all efforts reasonably possible to cure the delay and mitigate its effects. City shall not be responsible for payment for any product or service delayed by any action within or without the control of Vendor until such delayed service is provided. Vendor shall not be responsible for any delays in fulfilling its obligations under this contract due to action or non-action of City.

27. **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.

28. **SUCCESSORS AND ASSIGNS**

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

29. **COUNTERPARTS**

This Contract may be executed in Counterparts, each of which shall be deemed an original and constitute one and the same instrument.

30. **ENTIRE AGREEMENT**

This Contract, together with all Exhibits and Attachments incorporated herein, embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Contract, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Contract.

Effective _____________________2018, after signature by the City of Mesquite signing by and through its City Manager, duly authorized to execute same by the City Council on __________, 2018, and by Vendor signing by and through its authorized officer.
CITY OF MESQUITE
(CITY)

BY____________________________________

Cliff Keheley
City Manager

AUTHORIZED OFFICER

AUTHORIZED OFFICER

(VENDOR)

BY____________________________________

Authorized Officer

(Type or Print Name and Title)

ATTEST:

BY____________________________________

Sonja Land, City Secretary

CORPORATE SECRETARY

ATTEST:

BY____________________________________

Corporate Secretary

APPROVED AS TO FORM:

BY____________________________________

City Attorney or Designee