



**REQUEST FOR QUALIFICATIONS (RFQ) NO. 2025-043
FOR
CITY OF MESQUITE, TX**

CLOSING DATE AND TIME: DECEMBER 18,2024

**PROJECT MANAGEMENT SERVICES FOR THE RENOVATION OF
MULTIPLE CITY FACILITIES**

Pre-submittal conference: 2:00 p.m. on Tuesday, December 10, 2024, in the Legal Conference Room located on the Second floor of The City of Mesquite Municipal Center, 1515 N. Galloway Avenue, Mesquite Texas 75149

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 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 hold 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 before the closing date and time are 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 names of the respondents responding to this request for qualifications shall be released at the response opening. The City shall not release other information submitted by the respondent during the proposal evaluation process or prior to contract award. Confidential information will never be released, as noted by the respondent.
7. Respondent shall attach official documentation from the State of Texas or another qualified certification agency of the M/WBE status of your company with the 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 the bid.

9. In submitting an offer, the respondent certifies that they have not participated in nor 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 a response.
11. A representative of the responding entity authorized to enter into a 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 due to 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 award the most highly qualified provider of services based on demonstrated competence and qualifications with whom the City can negotiate a satisfactory contract at a fair and reasonable price. No response may be withdrawn within forty-five (45) days after opening date.
14. This Contract may be terminated at any time with thirty-(30) day's written notice by either the City of Mesquite or the 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 the 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, inquiries, 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 regarding disclosing proprietary information contained in any response but cannot guarantee information will not be made public. The City is subject to making records available for disclosure as a governmental entity.
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. The vendor's responsible for checking 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 based on demonstrated competence and qualifications based on the responses to this RFQ; then, it will attempt to negotiate a contract with that provider at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying 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 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 maintain the required types of insurance for the contract term. An original certificate of insurance will be required within ten business days before the execution of the contract.
23. The contract includes information for respondents so that they may be familiar with the contents and requirements. **Respondent shall not fill in or execute these forms at the 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 part any responses submitted and waive minor technicalities when in the City's best interest. 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 the written consent of the City signed by the City's authorized agent. Such consent shall not relieve the assigned 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, 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.

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 is afforded to all concerned. The City reserves the right to accept all or part of any proposal, reject any or all proposals, and 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 by **2:00 p.m. CST December 13, 2024**, 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. The response may be considered non-responsive if the following forms are not included.

Check List:

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

I. GENERAL INFORMATION

The City of Mesquite is soliciting Statements of Qualifications to select Architects as listed in this request for qualifications.

II. PROJECT MANAGEMENT SERVICES

**Project Management Services
City of Mesquite
Cliff Keheley, City Manager**

Purpose:

The City of Mesquite's ("City") Request for Qualifications is meant to specify a scope of work for qualified professional services firms for Project Management services as set forth below.

Background:

The City of Mesquite ("City") is issuing this Request for Qualifications (RFQ) for the purpose of inviting the submittal of a Statement of Qualifications for Project Management services for the renovation of the following City of Mesquite facilities:

Former Dallas County Tax Office- 210 W. Grubb Drive, Mesquite, TX, 75149. This building is approximately 4,000 square feet. The purpose of this remodel is to convert the existing space for Police Department training. This project will need to accommodate locker and shower facilities.

Former Dallas County Court Building- 823 N. Galloway Ave., Mesquite, TX, 75149. This building is approximately 8,000 square feet. The purpose of this remodel is to convert the existing space into additional offices for The City of Mesquite.

Former City and School District Health Clinic- 300 W. Kearney St., Mesquite, TX, 75149. This complex consists of two buildings for approximately 4,918 square feet. The current building is set up as a medical clinic and office space. The purpose of this remodel is still under consideration. It could stay as medical offices with reduced medical intake capacity or be converted to all office space for the City.

Mesquite Convention Center- 1700 Rodeo Center Drive, Mesquite, TX, 75149. The convention center facility consists of ballrooms, breakout rooms, and back-office areas totaling approximately 21,000 square feet. There is also a large open space exhibit hall approximately 35,000 square feet. The purpose of this remodel is to update the public ballrooms, breakout rooms, and restroom facilities. Updating lighting within all public-facing areas is also desired. Coordination of all construction activities with the convention center management company is essential for this remodel as the facility will remain open during the project.

The City will consider all available construction delivery methods for these projects. Different delivery methods may be used depending on the facility. The PM firm selected will work with the City and within the construction delivery method selected throughout all stages of the process.

Scope of Work:

General Services

- Report directly to the City's City Manager or their designee. The PM will represent the City of Mesquite in a fiduciary capacity.
- Act as the City's representative during all phases of assigned projects.
- Generate and distribute throughout all phases, management information reports detailing project progress, schedule, and monthly project budget status updates.
- Report on a regular basis and/or as otherwise requested by the City.
- Attend public meetings as a representative of the City, if requested.
- Prepare and give status reports for the City's executive management as requested.
- Provide regular presentations/tours to interested parties as requested.
- Establish a record management system to include maintenance and retention of related records, documentation, design data, drawings, correspondence, etc., pertaining to the assigned projects.
- Serve as the City's representative in matters with regulatory authorities.
- Provide upon request periodic digital photographs of progress and specific issues for the permanent project records.
- Provide the transfer of knowledge in all phases between the PM and the City's designated

individuals including, but not limited to, the Purchasing Department, Public Safety Department, Parks and Recreation Department, and Administration personnel.

- After approval by the City, the team members assigned as the PM team shall not be changed except with written consent of the City, and the proposed replacement of team members must be approved by the City in advance of performing services.

Project Planning Phase Activities

- Assist with development of project scope, preliminary pricing information, budgeting, and project priorities for the assigned project.
- Work with the City to develop a system for the management and reporting of funding.
- Identify desired delivery method for each project and support City in retaining professional services and contractor(s) to form a complete delivery team.
- Assist the City with solicitation process to select any professional services needed to successfully complete the project.
- Assist in the selection of consultants/contractors related to construction activities as well as negotiation and administration of their contracts
- Assist in selection, negotiation, and administration of consultants/contractor's agreements.
- Assist with development of consultant and contractor agreements with legal counsel as required.

Project Design Phase Activities

- Assist A/E with development of project specifications. Establish a master schedule for all projects assigned under the resulting agreement to include critical dates and milestones. Assist the City with coordinating construction around community events, members of the public, holidays, etc.
- Monitor design progress for conformance to the master schedule milestones. With the approval of City designated individuals, update the master schedule as required. Distribute to all applicable participants.
- Establish and implement cost monitoring, saving, and control procedures. Review and provide recommendations for approval of all payment applications associated with assigned projects. Review all design documents and construction documents for compliance with the City's objectives and design guidelines, compliance with local, state and federal policies and laws.
- Inform the City of any documents, in its opinion, as unsuitable, improper, or inaccurate. Provide written commentary and resolve all inconsistencies based on the City's design guidelines and objectives.
- Review estimates prepared by consultants for compliance with budget parameters. In the event of any apparent cost overrun, immediately notify the City of the circumstances, and develop corrective action to be taken.
- Coordinate periodic design review meetings, ensuring appropriate user and/or City participation. Schedule to be determined.
- Verify proper coordination of separate construction contracts, if any, and incorporation of

- City-furnished materials, equipment, and furniture into general contracts.
- Coordinate review of project constructability based on completed construction documents.
- Coordinate specifications for owner-furnished materials that are complete and ready for competitive bid in coordination with the City's Purchasing department.
- Provide the City with various construction options and implement methods that could be selected by the City that may involve cost savings, accelerated construction, or other benefits to the City.
- Oversee and support the City and A/E's efforts regarding coordination of permitting processes with local building officials.
- Develop and maintain Responsibility Matrix tracking all aspects of equipment and FF&E helping avoid cost overrun.

Bid and Award Phase Activities

Assist the City's Purchasing department with the following:

- Competitive procurement processes for General Contractor, CMAR or Design/Build may be utilized.
- Review City's draft bid advertisements and addenda.
- Participate in pre-bid meetings, assist the City in answering pre-bid questions, attend bid openings.
- Assist city to review and evaluate solicitation responses and make recommendations regarding contract award.
- Coordinate issue of the appropriate forms of contracts, notices of award, notice to firms not selected, and notices to proceed to contractors after City authorization is provided.

Pre-Construction

- Coordinating with City's assigned liaison to ensure all contracts, certificates of insurances, bonds, and state required documents are complete.
- Work through City's assigned liaison to draft final negotiating contract forms. The City will review and approve all final agreements before executing all contracts.
- Conduct Project Kick-off meeting with General Contractor and primary Sub-Contractors to establish project goals and guidelines.

Construction

- Attend bi-weekly Owner/Architect/Contractor (OAC) meetings.
- Coordinate city vendors and contractors.
- Review Schedule of Values/cost breakdown and construction schedule and recommend approval/changes or disapproval.
- Review all invoices and applications for payment by project professionals, contractor, and vendors. Forward to City Liaison for approval and payment processing.
- Access and evaluate cost/facts related to change orders requests, review and forward for recommended action.

- Work with General Contracting team coordinating information/workflow.
- Monitor work on site as necessary and daily if needed.
- Monitor quality of materials and methods used in construction, reporting all shortages or overages.
- Monitor project schedule and budget for compliance throughout process.
- Evaluate and recommend City action regarding changes to construction schedule.
- Provide photographs of construction progress throughout project.
- Review special inspection and material testing reports to verify compliance.
- Analyze contractor claims if any and recommend City action.
- When work is non-compliant to plans and specifications, document the deficiencies and promptly provide notification of the deficiencies to the Owner, Architect, Engineer, and Contractor.
- Verify General Contractor proper safety plans in place and notify the City of any violations that the PM observes or should reasonably be aware of.
- Coordinate and manage procurement of FF&E with City, to include providing assistance with specifications, evaluation, and management of procurement.
- Keep Master Project Budget updated and available for review.

Project Close Out Phase

- Manage the completion process.
- Schedule and conduct punch-list walk-thru with City Representative, Architect and General Contractor creating a complete list of existing deficiencies.
- Monitor and confirm completion of all punch-list items prior to sign-off.
- Verify submission of O&M manuals, warranties, guarantees, bonds, as built documents, and all other required closeout documents.
- Assist in close-out of all contracts, confirming supporting documentation is complete and A/E recommends final acceptance to the City.
- Coordination of maintenance agreements, systems start-up.
- Coordinate City occupancy of completed facilities.

ROLE OF CONSULTANT

The consultant will furnish all required labor, materials, supplies, and travel required in connection with the project(s). The consultant will work directly with assigned city staff to coordinate necessary administrative, legal, and technical functions associated with the project(s). The City expects that the consultant's staff will include individuals with expertise in similar types of projects. The consultant will represent the City in a fiduciary capacity.

ROLE OF THE CITY

The City will make available copies of any relevant reports, studies, draft contracts, or other resources as may be needed for the completion of the project(s). The City will assign appropriate staff to be the City

liaison(s) for necessary administrative, legal, and technical support associated with the project(s). City staff will be solely responsible for all project communicates with the governing body of the City.

III. SELECTION PROCESS

City Staff will analyze and evaluate the Statements of Qualification (SOQ). Based on the project's evaluation criteria, 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(s), 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. If Staff fails to reach a final contract with the firm(s), Staff will continue negotiations with the next most highly qualified firm(s) and will continue until the selected vendor(s) is awarded the negotiated contract(s). 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, the respondent accepts the evaluation process outlined in Section IV and acknowledges and accepts that determining 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 are encouraged 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 section formatted as directed below. You may include tab dividers for all sections.

RFQ 2025-043 EVALUATION SCORING MATRIX

An evaluation team consisting of City staff shall review the information provided and score the information using the following:

<u>SELECTION CRITERIA:</u>				
	<u>POINTS</u>			<u>SCORE</u>
<u>1. QUALIFICATIONS OF THE RESPONDING FIRM AND EXPERIENCE</u>	<u>40</u>		=	
<i>Evaluation of qualifications is based on the Consultant's:</i> • Capability to provide the requested services • Number of appropriate staff in the local office • Available in-house services • Location of office with respect to Mesquite <i>The Consultant should demonstrate experience with and an understanding of the specifics and critical factors related to the project type and various construction delivery methods. Evaluation is based on experience with projects of similar type, cost, and complexity.</i>				
<u>2. PROPOSED PROJECT STAFF</u>	<u>20</u>		=	
<i>The Consultant should provide the names and qualifications of the key staff members who will be involved in the project. Evaluation is based on their specialty and depth of experience with similar types of projects. They need to demonstrate creativity and ability to perform their assigned responsibility in a timely manner and within budget.</i>				
<u>3. SCHEDULE</u>	<u>20</u>		=	
<i>The response should provide enough historical detail to confirm an ability to consistently and reasonably meet project schedules.</i>				
<u>4. REFERENCES</u>	<u>20</u>		=	
<i>The evaluation is based on information from the references, including their experience with the firm or staff, its customer service, its ability to deliver on time and within budget, and overall satisfaction.</i>				
<u>TOTAL POSSIBLE SCORE</u>	<u>100</u>		=	

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

The firm's overall qualifications, experience, and reputation 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;
- Experience in a design and construction process using various construction delivery methods;
- 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 summarizing 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. If sub-consultants are included in assembling a project team, their qualifications and experience as 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.

The response should include examples of projects in which the firm provided similar services.

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

V. SUBMITTALS

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

Submittals must be limited to forty (40) pages. Covers, table of contents and divider tabs will not count as pages toward the overall limit. Except as expressly stated, elaborate covers, binding, dividers, and other things are not required or desired. Extensive marketing materials are not desired.

Submissions should give the full firm name, delivery address, and Respondent's contact information. The person signing the submission should show the title and authority to bind their firm in future contracts.

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 bind the Respondent legally;
- A single point of contact should be identified to respond to any questions regarding the submission.

Section 1 - Each Respondent shall submit a brief overview of the firm. The summary should include an overview of the firm, corporation, and partnership and provide a brief overview of each of the firms, corporations, partnerships, or others to whom the Respondent intends to subcontract any portions of the work and are the project team members.

Section 2 - 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 demonstrating financial stability, performance, and firm history.

Respondents shall submit:

- Name and address of the business entity submitting the response.
- Name and location of major offices and other facilities relevant to the Respondent's performance under the submission related to the Respondent's performance under the submission terms.
- Name, business addresses, business telephone numbers and email address of the proposed principal contact person regarding all contractual matters relating to the RFQ.
- Pertinent information relating to the Respondent's organization, experience, competence, reputation, and capability in providing Project Management services.
- Statement outlining each project team member's experience in projects of similar type and scope.
- 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 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 for the various areas of focus within Project Management;
 - The team's specific experience is in delivering Project Management services by working with various construction delivery methods.
 - Each Respondent shall provide examples of challenges to the schedule and methods taken to meet the project schedule, especially working within facilities that must remain open to the public during ongoing construction.

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- Each Respondent must provide no less than five (5) client references for similar projects. The Respondent should have led the design team within the last eight years in at least three of those projects. 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 the project;
 - Number of staff by position participating in Project Management services;
 - Name of General Contractor.
 - Name of Architect.

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

VI. ADDITIONAL INFORMATION TO BE INCLUDED IN STATEMENT OF QUALIFICATIONS

- The City of Mesquite requires professional liability insurance for firms it contracts with. Please state what coverages your firm carries and in what amounts.
- Identify the firm executives with 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) before consideration of potential conflicts of interest to identify and cure such conflict(s) before considering the work. Failure to identify such conflict may remove that person or firm from further consideration.

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 date December 18,2024**, 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 initially enacted by the Texas Legislature with HB 914 in 2005. It 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 selling or purchasing 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 THE CONTRACT AWARD AND REQUESTED TO FILE FORM 1295 ELECTRONICALLY 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 must follow while performing their services to you. . State or federal statutes may be violated 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 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 gifts, 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 unavailable to every other citizen.
- Please do not ask an employee to disclose any information unavailable 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 your company's products or services.
- 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 business with the City that will be used by them personally.

- If you are asked to pay a fee for services that you believe are 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

The use of City equipment, facilities, and resources is authorized only for City purposes and for activities permitted by City ordinances and policies.

- Please do not ask employees to use City equipment to run errands or perform tasks for your benefit.
- Employees may not perform tasks or conduct any business unrelated to their official duties while on City time.

Your Rights and Expectations

When dealing with the City of Mesquite employees, 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 for 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 must 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 suspended, debarred, or otherwise excluded from participation in federally funded programs.

The U.S. federal government maintains a website called 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 any agency has excluded 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 ten 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) with the 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

For PM Service Contracts of \$50,000 or less:

- General Liability for bodily injury, death, or property damage with minimum limits of \$1,000,000 per Occurrence, \$1,000,000 General Aggregate, \$1,000,000 Products/Completed Operations Aggregate.
- General Liability for bodily injury, death, or property damage with minimum limits of \$1,000,000 per Occurrence, \$1,000,000 General Aggregate, \$1,000,000 Products/Completed Operations Aggregate.
- Professional Liability/Errors & Omissions coverage with minimum limits of \$500,000 per Claim (with no less than a two-year ERP).
- Auto Liability with minimum limits of \$500,000 Combined Single Limit.
- The Certificate(s) must include a statement listing the City of Mesquite, Texas as additional insured on the General Liability coverages.
- Employers Liability with minimum limits of \$100,000 Occupational Disease, \$100,000 per Accident, and \$100,000 per Employee.
- The Certificate must include a statement providing a Waiver of Subrogation on the Employer's Liability and the General Liability coverage.
- All Certificates must provide for at least a 30-day's notice of cancellation and bear an authorized signature.
- All deductibles and self-insured retentions must be noted on the Certificates.
- Claims-made policies are only acceptable for the Professional Liability policy.
- Declarations or copies of policies, in addition to a certificate of insurance, must be provided if requested by the City.
- All coverages must be afforded by a carrier licensed or authorized to sell insurance in Texas and have an AM Best rating of A- and a financial solvency rating of VII or better.

For PM Service Contracts in an Amount greater than \$50,000:

- General Liability with minimum limits of \$1,000,000 per Occurrence, \$1,000,000 General Aggregate, \$1,000,000 Products/Completed Operations Aggregate.
- General Liability must include coverage for Premises and Operations, Products and Completed Operations, Contractual Liability, Independent Contractors, Broad Form Property Damage, and Personal/Advertising Injury.
- Professional Liability/Errors & Omissions coverage with minimum limits of \$1,000,000 per Claim

(with no less than a two-year ERP).

- Auto Liability with minimum limits of \$500,000 Combined Single Limit required.
- The Certificate(s) must include a statement listing the City of Mesquite, Texas as additional insured on the General Liability coverages.
- Employers Liability with minimum limits of \$100,000 for Occupational Disease, \$100,000 per Accident, and \$100,000 per Employee.
- The Certificate must include a statement providing a Waiver of Subrogation on the Employer's Liability and the General Liability coverage.
- All Certificates must provide for at least a 30-day's notice of cancellation and bear an authorized signature.
- All deductibles and self-insured retentions must be noted on the Certificates.
- Claims-made policies are only acceptable for the Professional Liability policy.
- Declarations or copies of policies, in addition to a certificate of insurance, must be provided if requested by the City.
- All coverages must be afforded by a carrier licensed or authorized to sell insurance in Texas and have an AM Best rating of A- and a financial solvency rating of VII or better.

REFERENCES

Five (5) Professional References (Include Names, Addresses, Phone Numbers., Dates, Work Description, and Contract Amounts.)

1. _____

2. _____

3. _____

4. _____

5. _____

CONTRACTOR'S SIGNATURE PAGE

PROJECT MANAGEMENT SERVICES FOR THE REMODEL OF MULTIPLE CITY FACILITIES

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

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

Signature

Type/Print Name

Title

Telephone Number

Email

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 to familiarize the Proposer with the contract form, which the successful Proposer will be required to execute.

**OWNER'S REPRESENTATIVE CONTRACT
WITH _____**

THIS CONTRACT is made and entered into by and between the CITY OF MESQUITE, a Texas municipal corporation, of Dallas County, Texas, (hereinafter called "City") and _____, a _____ company, with an address of _____ (hereinafter called "Company").

1. PURPOSE

The purpose of this Contract is to state the terms and conditions under which Company shall assist City with the administration of a construction contract for the construction/remodel of _____ in the City of Mesquite (the "Project").

2. DESCRIPTION OF SERVICES

Company's services hereunder shall include, but shall not be limited to, the following:

A. Company shall perform all the services for the Project as set forth in Company's proposed Scope of Services (the "Scope of Services"), attached as **Exhibit A**, which Exhibit is made a part of this Contract for all purposes; provided, however, should there be any conflict between the terms of the Scope of Services, and the terms of this Contract, the terms of this Contract shall be final and binding.

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

C. Company 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

Company and its employees or associates shall perform all of the services under this Contract. Company represents that all its employees or associates who perform services under this Contract shall be fully qualified and competent to perform the services described herein.

4. TERM

The term of this Contract shall begin on _____, and end on final completion of the contract between City and the construction contractor, unless terminated earlier as provided herein. Company 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 Company and

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

5. PAYMENT FOR SERVICES

A. **Fee.** In consideration of the services to be performed by Company under the terms of this Contract, City shall pay Company for services actually performed, exclusive of reimbursables, the lesser of the amount of (i) _____ (\$XXX.XX) or (ii) the amount billed for work actually performed and accepted by the City ("Fee").

Subject to the terms herein, the Fee shall be paid by City to Company in (xx) equal monthly payments. The Fee assumes a general project duration not to exceed (xxx) construction days with a (30) calendar day close out period included.

Company's Fee assumes that the Project will progress in a continuous and orderly fashion during which City will expedite the Project as much as practical. Significant Project delays through no fault of Company may be the basis for negotiation of additional fee for professional services.

B. **Invoices.** Company shall submit bills no later than the third business day of each month. City will pay invoices within (30) days of receipt in accordance with the Texas Prompt Payment Act. Unpaid invoices shall bear interest at the lesser of: (i) the maximum amount allowed under the Texas Prompt Payment Act, or (ii) 1.0% per month.

Exclusive of reimbursable expenses, Company shall invoice the City for no more than 1/XXth of the total Fee amount each month. In the event Company's monthly invoice to City exceeds 1/XXth of the total Fee, the City shall issue payment in an amount equal to 1/XXth of the total Fee and roll over the remaining invoice amount to the following monthly invoice.

Company's charges for its services are not to exceed similar charges of Company for comparable services to other customers. Payments to Company shall be in the amount shown by the itemized billings and other documentation submitted by Company to City 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 Company, 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.

C. **Reimbursables.** Reimbursable expenses in excess of \$100 will only be allowed if agreed to in writing by the City in advance of said expenses being incurred. Reimbursable expenses shall be invoiced monthly along with the Fee. Company shall be reimbursed for actual approved expenditures related to this Project and made in the interest of the City and shall be paid on a

basis of the actual cost paid by Company. Company will not be paid for any expenses which do not comply with the terms of this Contract or which will result in payments exceeding the contract maximum as stated below.

Reimbursable expenses may include (but are not limited to) the following: Messengers; Federal Express; Reproduction of drawings, schedules, specifications, and documents; Postage and handling of drawings, schedules, specifications, and documents; Registrations; permits; material testing; and asbestos testing.

D. **Contract Maximum.** The total amount paid by City to Company under this Contract, inclusive of reimbursables, is not to exceed _____ DOLLARS (\$XXX.XX).

E. **Changes in Services/Compensation.** 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.

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 Company 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 Company shall be mutually agreed upon by Company and the Director. Changes in the scope which in the opinion of Company and the Director would justify an increase in compensation requiring additional funding by City must first be authorized as described in Section 5.

7. CONFIDENTIAL WORK

No deliverables or other information (including information given by City to Company to assist Company's performance under this Contract) developed by, given to, prepared by or assembled by Company under this Contract shall be disclosed or made available to any third-party individual or organization by Company 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 Company 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. Company 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, Company 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. COMPANY'S LIABILITY

Approval of City shall not constitute or be deemed a release of the responsibility and liability of Company, its employees, agents, associates, or subcontractors for the accuracy and competency of the deliverables prepared by Company, its employees, agents, associates, or subcontractors, 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 Company, its employees, agents, associates, or subcontractors.

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. Company 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, Company is put on notice that City will require the Company 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, Company 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 Company of all benefits of this Contract; (2) the retainage by City of all services performed by Company; and (3) the recovery by City of all consideration, or the value of all consideration, paid to Company pursuant to this Contract.

11. INDEPENDENT COMPANY

Company's status shall be that of an independent Company and not an agent, servant, employee, or representative of City in the performance of the services under this Contract. Company shall exercise independent judgment in performing services under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the workflow and determining how the work is to be performed. No term or provision of this Contract or act of Company in the performance of this Contract shall be construed as making Company the agent, servant or employee of City, or making Company 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**

COMPANY AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS, EMPLOYEES, INSURANCE, AND RISK POOLS 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 COMPANY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF COMPANY, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCOMPANYS, 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. Company 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 as specified in **Exhibit B**, attached hereto and incorporated for all purposes.

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

14. **GIFT TO PUBLIC SERVANT**

City may terminate this Contract immediately if Company 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 Company to remove any employee of Company 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 professional services. Company, therefore, shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of City's Director, which may be withheld by City's Director for any reason or no reason at all.

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 Company, 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 Company assign and transfer to City all of Company's rights and obligations under existing subcontracts it has to perform Contract work in the event of termination under this Section. City shall compensate Company in accordance with the terms of this Contract for Contract work properly performed and authorized in writing by the City prior to the date of termination specified in the notice, following inspection and acceptance of same by City's Director. Company shall not, however, be entitled to lost or anticipated profits should City choose to exercise its option to terminate.

17. NOTICES

Except as otherwise provided in Section 18, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected 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:

City Manager
1515 North Galloway Avenue
Mesquite, Texas 75149

If intended for Company, to:

18. EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

A. Company 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.

Company shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. Company agrees to post in conspicuous places a notice, available to employees and applicants, setting forth the provisions of this non-discrimination clause.

B. If Company 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 Company ineligible for further City contracts until it is determined to be in compliance.

19. RIGHT OF REVIEW AND AUDIT

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

20. VENUE

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

21. GOVERNING LAW

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

22. MISCELLANEOUS

A. Pursuant to Section 2271.002, Texas Government Code, if the Company employs 10 or more full-time employees and the Contract has a value of \$100,000 or more Company 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(1), Texas Government Code.

B. Company further represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization or any company that is identified on a list prepared

and maintained under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code and (ii) it does not engage in business with companies 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 Company 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 Company represents that: (i) the Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) the Company will not discriminate during the term of the contract against a firearm entity or firearm trade association.

D. Pursuant to Texas Government Code Chapter 2274, unless otherwise exempt, if the Company is a company with at least ten (10) or more full-time employees and has value of at least \$100,000 or more that is paid wholly or partly from public funds of the governmental entity, the Company represents that: (i) the Company does not boycott energy companies; and (ii) will not boycott energy companies during the term of the Contract

23. LEGAL CONSTRUCTION

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

24. COUNTERPARTS

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

25. CAPTIONS

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

26. SUCCESSORS AND ASSIGNS

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

27. FORCE MAJEURE

Should performance of any obligation created under this Contract become impractical by reason of fire, flood, storm, act of God, adverse weather conditions of unusual duration or nature, governmental authority, labor disputes, supply chain disruptions war, endemic, pandemic, public health emergency, or any other cause not enumerated herein but which is beyond the reasonable control of the party whose performance is affected, then the performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hinderance, provided the affected party provides reasonable notice of the event of force majeure and exercises reasonable diligence to remove the cause of force majeure.

28. 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. The City's payment of invoices or statements shall not be deemed as the City's acceptance of any term or provision that amends or modifies this Contract or the task order under which payment is made.

[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 by the City Council, and by Company.

CITY OF MESQUITE
(CITY)

(COMPANY)

By: _____
Cliff Keheley, City Manager

By: _____
(Name and Title)

ATTEST:

Acknowledgment

By: _____
Sonja Land, City Secretary

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

By: _____
Sr. Assistant City Attorney

State of Texas, 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 _____ of _____, 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 Texas

EXHIBIT A