



**REQUEST FOR QUALIFICATIONS (RFQ) FOR
PROFESSIONAL CONSULTING SERVICES**

Related to the

**HOUSING STUDY AND
HOUSING NEEDS ASSESSMENT
FOR THE CITY OF MCKINNEY**

**RFQ No. 19-62RFQ
ISSUED**

Sunday, September 22, 2019

**Submittals will be accepted by mail or hand delivered no later than 2:00 p.m. CDST,
Thursday, October 24, 2019, to:**

Lisa Littrell, CPPO, CPPB
Purchasing Manager
1550 South College Street, Building D
McKinney, TX 75069
P.O. Box 517
McKinney, Texas 75070

Respondents must submit their Statement of Qualifications (SOQ), the signature page, and all additional information requested. It is requested that respondent provide one (1) original and three (3) hardcopies of all documents in a sealed envelope and manually signed in ink by a person having the authority to submit firm's information and qualifications, as well as one (1) electronic copy on CD or USB in PDF format. (PDF copy must have signature included).

All questions or requests for interpretations must be submitted electronically via the "Questions" tab related to this project, 19-62RFQ, on the City of McKinney's eBid system at <https://mckinney.ionwave.net>

The City of McKinney exclusively uses IonWave Technologies, Inc. ([McKinney eBid](#)) for the notification and dissemination of all solicitations. The receipt of solicitations through any other means may result in your receipt of incomplete specifications and / or addendums which could ultimately render your submittal non-compliant. The City of McKinney accepts no responsibility for the receipt and / or notification of solicitations through any other means.

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LEGAL NOTICE
City of McKinney, Texas
Advertisement for Submittals

The City of McKinney is accepting qualifications from consulting firms who can demonstrate they have the resources, experience, and qualifications to provide consulting services for a Housing Study and Housing Needs Assessment. Specifications for this project may be obtained on our eBid system @ <https://mckinney.ionwave.net>.

Submittals will be publicly opened, and consultants names read aloud in the office of the Purchasing Manager, at the address below, shortly after the specified time for delivery. All submittals must be clearly addressed to the Purchasing Department and include the RFQ name and number on the outside of the envelope/package.

Submittal Deliveries: The City of McKinney can not guarantee, due to internal mail delivery procedures, that any submittals sent priority mail will be picked up from the post office by city mail employees and delivered to the Purchasing Department by the closing date and time. It is recommended submittal deliveries be made either in person or via an alternate delivery method ensuring delivery to the physical address. ***Respondents shall bear full responsibility for ensuring that the submittal is delivered to the specified location by due date and time. Late submittals will be rejected as non-responsive.***

RFQ NAME:	Housing Study and Housing Needs Assessment
RFQ NO.:	19-62RFQ
DUE DATE/TIME:	2:00 p.m., October 24, 2019
MAIL OR DELIVER TO:	City of McKinney Purchasing Department 1550D South College McKinney, Texas 75069

This publication can be made available upon request in alternative formats, such as, Braille, large print, audiotape or computer disk. Requests can be made by calling 972-547-2694 (Voice) or email contact-adacompliance@mckinneytexas.org Please allow at least 48 hours for your request to be processed.

The City reserves the right to reject any and all submittals and to waive any informality in submittal received, deemed to be in the best interest of the City. No officer or employee of the City of McKinney shall have a financial interest, direct or indirect, in any contract with the City of McKinney.

First Publication: September 22, 2019
Second Publication: September 29, 2019

INSURANCE REQUIREMENTS

- A. Before commencing work, the consultant shall, at its own expense, procure, pay for and maintain the following insurance written by companies approved by the state of Texas and acceptable to the City of McKinney. The consultant shall furnish to the City of McKinney Purchasing Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

Housing Study and Housing Needs Assessment
City of McKinney
Attn: Rosanne Lemus, CPPB
P.O. Box 517
McKinney, TX 75070
Or you may email to:
rlemus@mckinneytexas.org

1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
2. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.
4. Professional Liability Insurance to provide coverage against any claim which the consultant and all consultants engaged or employed by the consultant become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000 per claim, \$2,000,000 annual aggregate.

NOTE: If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than *thirty-six (36) months* following completion of the contract and acceptance by the City of McKinney.

- B. With reference to the foregoing required insurance, the consultant shall endorse applicable insurance policies as follows:

1. A waiver of subrogation in favor of City of McKinney, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
2. The City of McKinney, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader .

3.. All insurance policies shall be endorsed to the effect that City of McKinney will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or material change of the policies.

C. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

REQUEST FOR QUALIFICATIONS

I. REQUESTS FOR QUALIFICATIONS STATEMENTS

The City of McKinney (“the City”) requests Statements of Qualifications (“SOQs”) from interested qualified firms to provide a Housing Study and Housing Needs Assessment for the City of McKinney. These services are being made in compliance with applicable Federal, State, and Local statutory requirements, to include the Federal Funding and Accountability Transparency Act (“FFATA”), Public Law 116-6, under the United States Department of Housing and Urban Development (“HUD”).

The City prefers to award this contract to one qualified firm that can also provide consulting services as listed in the City of McKinney 5-Year Consolidated Plan and Analysis of Impediments to Fair Housing Choice RFQ. See 19-63RFQ in eBid.

II. SCOPE OF SERVICES AND RESPONSIBILITIES

The scope of work requested will focus on expanding efforts to revitalize neighborhoods and provide housing opportunity through analysis of community housing market needs, housing stock and socioeconomic trends, while also identifying target housing and economic development areas. The housing study should address topics such as demographic changes, affordability in McKinney, the types of households most likely to need affordable housing, and the ability to accommodate future housing needs in the City. Services may include, but not limited to, the following:

1. Community Profile – The Community profile provides context for the housing needs assessment. The profile should review population growth, changing demographics, and employer needs.
 - a. Demographic Overview
 - b. Economic Indicators
 - c. Economic Development Goals for Employer Attraction and Retention
 - d. Summary of Local Policies Governing Housing
 - e. Summary of Local Policies Governing Land Use

2. Income Profile – An income profile should analyze resident incomes with housing affordability in mind. The income profile should evaluate the distribution of households by income group and including housing tenure and the number of cost burdened households, including various population groups, including but not limited to low- and moderate-income senior citizens, minority populations, mentally and or physically disabled, families, individuals and single parents.
 - a. Income and Poverty
 - b. Income by Housing Tenure
 - c. Cost Burden

3. Housing Profile and Affordability – A housing profile provides an analysis of the existing housing stock in terms of age, condition, and cost for both rental and for-sale housing.
 - a. Existing Housing Stock
 - b. Profile of Renters and Owners
 - c. Housing Cost and Affordability
4. Market Mismatches and Gaps – A gap analysis should compare the supply of existing and projected housing at various price points to the number of existing and projected households that can afford such housing. This analysis should be done for both rental and for-sale housing, based on data from the Housing Choice Survey and Demographic Overview.
 - a. Rental Gaps
 - b. Gaps in For-Sale Market
 - c. Current Workforce Affordability
 - d. Housing Stock Needed to Achieve Economic Development Goals for Employer Attraction and Retention
5. Housing Survey – The purpose of the McKinney resident housing survey is to better understand and identify varied housing product types and housing price points, including concerns of unmet needs.

III. EVALUATION CRITERIA AND FACTORS

All submittals will be reviewed for completeness and evaluated by a Selection Committee. Failure to provide the requested information or adhere to the guidelines outlined herein may subject your submittal to disqualification. All responses must provide sufficient detail to evaluate the respondent's ability to perform the services requested.

Contracts will be entered and awarded to a firm who has proven themselves to be most responsible and most responsive, taking into consideration relative importance of the factors set forth in this Request for Qualifications as specified below. The review of the SOQ will be based on the following selection criteria:

Scoring (100-point scale without interview – 125 -point scale with interview, if desired)

Experience – 40 points maximum

- Demonstrate experience with housing and market studies for other governmental entities.

Capacity to Perform – 30 points maximum

- Provide proposed team member qualifications and resumes including team members directly involved in this project.

Project Approach – 20 points maximum

- Demonstrate an innovative approach to a housing study with a focus on affordability.

Housing Choice Survey – 10 points maximum

- Demonstrate efforts to work with the City on performing a successful housing choice survey that sheds additional light on housing market gaps.

Optional Interviews: The shortlisted firms may be requested to participate in an interview and provide a presentation that is worth up to an additional 25 points. Any additional points earned will be added to the points the firm received in the first round of the evaluation.

The City may request additional information regarding demonstrated competence and qualifications, the ability of the respondent to meet all schedules, or other factors as appropriate.

The successful respondent will enter into a Professional Services Contract with the City. The firm will be expected to execute the City's standard professional services contract and to comply with the requirements outlined therein (please see **Attachment B** for a sample of the City's standard professional services contract)

In responding to this RFQ, the firms understand that the decision of the selection committee is final. All SOQs will be reviewed and ranked according to the criteria above, and proponents may be selected for interviews or oral presentations as desired. The City makes no commitment to any proponent to this RFQ beyond consideration of the SOQs.

IV. SUBMITTAL REQUIREMENTS

General Instructions:

- A. Respondents should carefully read the information contained herein and submit a complete response to all requirements and questions, as directed.
- B. Responses and any other information submitted by Respondents in response to this RFQ shall become the property of the City.
- C. The City will not provide compensation to Respondents for any expenses incurred by the Respondent(s) for submittal preparation or for any demonstrations that may be made, unless otherwise expressly stated or required by law. Respondents submit qualifications and other submittal information in response to this RFQ at their own risk and expense.
- D. Responses which are incomplete or qualified with conditional clauses, or alterations, or items not called for in the RFQ documents, or irregularities of any kind, are subject to disqualification by the City, at its option. The City reserves the right to waive any irregularity or informality in a response or submittal.
- E. Each response should be prepared simply and economically, providing a straightforward, concise description of the Respondent's ability to meet the requirements of this RFQ. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of the City's needs.
- F. The City makes no guarantee that an award will be made as a result of this RFQ or any subsequent RFQ, and reserves the right to accept or reject any or all submittals, waive any formalities, irregularities, or minor technical inconsistencies, or delete any item / requirements from this RFQ or contract when deemed to be in the City's best interest. Representations made within the submittal will be binding on responding firms.
- G. Failure to comply with the requirements contained in this RFQ may result in a finding that the

Respondent is not qualified and is ineligible to submit a submittal in response to any subsequent RFQ.

- H. Failure to comply with the requirements contained in this RFQ may result in a finding that the Respondent is not qualified and is ineligible to submit a submittal in response to any subsequent RFQ.
- I. Only individual firms or formal joint ventures may apply. Two firms may not apply jointly unless they have formed a joint venture. Any associates will be disqualified. (This does not preclude a Respondent from having sub-consultants.)

V. REQUIREMENTS FOR STATEMENTS OF QUALIFICATIONS

The following items are required to be submitted with the response. In order to expedite the evaluation of qualifications, interested firms will organize their proposals in the sequence provided below. These instructions are designed to ensure the submission of information essential to the understanding and comprehensive evaluation of the proposal.

Executive Summary:

Provide an Executive Summary of the major features of the proposal, including any conclusions, assumptions, and general recommendations the Firm desires to make. In addition, provide the information listed below. The Executive Summary section is limited to a length of two (2) pages.

- The name of the project manager who will work on the contract and relevant project experience.
- Verification that the proposed team individuals are currently employed by the firm.
- Firm name, business address, telephone number, and email address.
- Confirmation that the general liability insurance, workers' compensation, and professional liability insurance will be provided within ten (10) calendar days of the Contract Award.
- Brief statement providing assurances that the Firm will be cognizant of, comply with, and enforce all applicable Federal, State, and local laws, regulations, and ordinances, and a description of your firm's methodology for handling errors and omissions in the materials developed as part of this Project.

Reference Lists and Relevant Experience Information:

- Identification of the firm/team responding to the RFQ. If a team of firms is proposed, the lead firm should be identified. Location of the headquarters office for the lead firm should be indicated, as well as the location of each lead firm/team member office where work will be performed for the project.
- A brief description of each firm/team member should be provided including a brief summary of their experience.
- A reference list of clients with contact names, telephone numbers, and email addresses.
- Year established (including former firm names and year established, if applicable). State the size of the firm and the number and nature of the professional staff to be assigned to the project.
- A description of firms experience in providing services of a substantially similar nature. Include at least two (2) examples of work performed.

Project Understanding and Approach

An outline of the tasks your firm will perform to produce information and services requested under the scope of services. Indicate if any additional tasks are necessary. Include a timeline and schedule for completion of the project.

VI. SUBMISSION OF RESPONSE

Qualified firms are invited to submit one (1) original and three (3) copies of their Statement of Qualifications, and one (1) USB flash drive containing the SOQ in a single file PDF document. **Documentation should be limited to twenty-five (25) pages**, excluding required supplemental forms that may be included in an appendix or attachment.

Pages printed front and back will constitute as two (2) pages with each page numbered consecutively. Covers, one-page cover letter, table of contents, and dividers will not count against the page limit, provided no additional information is included on these pages. All pages must be letter size (8-1/2" x 11") paper and must use a 12-point font size in Aerial font style (or similar sans font type) is required.

To the extent permitted by law, all documents pertaining to this RFQ will be kept confidential until a contract is awarded. No information about any SOQ will be released to the public until the process is complete. The City is under no obligation to return SOQs.

It is the sole responsibility of the firm to ensure that its SOQ reaches the City's Purchasing Department. Deliver all SOQs, unless otherwise specified, to the address on the label no later than the submittal deadline. The firm is cautioned that it is responsible for delivery to the Office of the Purchasing Manager. Therefore, if your SOQ is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the address below. The City is not responsible for deliveries made to any place other than the Office of the Purchasing Manager.

The City will not accept or consider responses received after the submittal deadline. Submittals shall be mailed or delivered to:

**Office of the Purchasing
Manager
ATTN: Lisa Littrell, CPPO CPPB
Building D, 1550 S College St,
McKinney, TX 75069
or
P.O. Box 517 McKinney,
Texas 75070**

The City will not accept SOQs after the submittal deadline outlined in this RFQ. The outermost sealed envelope/container will be labeled as such:

SEALED RFQ RESPONSE • DO NOT OPEN
SEALED PROPOSAL NO.: 19-62RFQ
RFQ TITLE: Housing Study and Housing Needs Assessment
DUE DATE/TIME: October 24, 2019, prior to 2:00 p.m., CDST
SUBMITTED BY: _____ (Name and City/State of Firm)

VII. AWARD OF CONTRACT

Negotiations: After selection of the most highly qualified firm based on the evaluation criteria, the City may then enter into negotiations with the selected firm as to the terms of the agreement, and all aspects of the project to reach a fair and reasonable price. The selected firm will be required to submit its cost proposal and fee within five (5) calendar days of the City's request.

Inability to Reach an Agreement: In the event the negotiations between the most highly qualified firm and the City cannot be completed as a result of an inability to reach agreement on a fair and reasonable fee for services, or the scope of work to be performed, then the City may formally end negotiations with that firm and attempt to negotiate a contract with the next most highly qualified firm until a contract is entered.

Successful Firm's Documents: The successful firm will provide its SOQ and any negotiated amendments to the SOQ to the Office of the Purchasing Manager as an electronic Microsoft Office Word file.

Contract Award: The selection of a most highly qualified firm and the execution of a contract, while anticipated, are not guaranteed by the City. The City reserves the right to determine which SOQ is in the City's best interest and to award the contract on that basis, to reject any and all SOQs, and waive any irregularities of any SOQ.

City Council Approval: The City Council will consider the final contract for approval in the event the final contract amount is anticipated to exceed \$49,999.99.

Final Contract:

1. The selected firm will assume responsibility for all services offered in its SOQ, whether or not such services are provided by a sub-consultant or joint venture arrangement. The successful firm will be considered the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
2. The successful firm will be required to enter into a written contract with the City. This RFQ and the successful firm's proposal, or any part thereof, may be incorporated into and made a part of the final contract. The City reserves the right to negotiate the terms and conditions of the contract with the successful firm.
3. The contract amount will not exceed \$49,999.99 without prior approval from City Council.
4. Be advised that exceptions to any portion of the RFQ may jeopardize acceptance of your SOQ. If exceptions are taken to the City's Agreement, this will be clearly indicated and a full explanation given for each exception. It is required that the SOQ enumerate the specific clauses that the firm wishes to amend or delete and suggest alternative wording in the SOQ. In view of the length of time involved in obtaining the approval of legal counsel, firms are cautioned not to state that the firm's SOQ is subject to the firm's standard terms and conditions or that the final terms and conditions are subject to negotiation after award. This may result in the SOQ being deemed non-responsive, in which no further consideration or evaluation will be made.

VIII. SPECIAL PROVISIONS

Federal Provisions and Requirements: Federal provisions and requirements, incorporated herein as Exhibit 5, 6, and 7, will be incorporated into the final Professional Services Agreement.

Selected Response: The City reserves the right to include the selected response or any part or parts of the selected response in the final contract.

Reimbursement: The City makes no commitment to any respondent of this RFQ beyond consideration of the written SOQ. The City will not reimburse firms for the costs incurred in response to this solicitation.

Collusion: By submission of a response, the firm certifies, and in the case of a joint submission each party certifies as to its own organization, that in connection with any cost proposal submitted by the firm, the prices which are quoted are not the product, direct or indirect, of any collusion with any other firm, and have not been knowingly disclosed by the firm directly or indirectly to any other firm prior to submission to the City.

Addenda: Any changes resulting from the questions submitted affecting the scope of work, or which may require an extension to the solicitation due date will be reduced to writing in the form of an addendum to this solicitation. Addenda may only be viewed at <https://mckinney.ionwave.net>. It is the firm's responsibility to check the above site to determine if the City has issued any addenda. Addenda will be issued no later than seventy-two (72) hours prior to the SOQ due date.

Lobbying: Firms are prohibited from directly or indirectly communicating with City Council members regarding their qualifications or any other matter related to the eventual award of a contract for the services requested in this RFQ. Firms are prohibited from contacting City staff or evaluation committee members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff or committee member through the Purchasing Manager. **Any violation will result in immediate disqualification of the Firm from the selection process.**

City of McKinney Artwork: Use of the City seal or the City brand on SOQs is **not** permitted.

Taxpayer Identification Form: Prior to the execution of a contract for these services, the selected Firm will complete a Request for Taxpayer Identification Number and Certification Form (IRS Form W-9). The City will not make payment against the contract until it has received the properly completed form.

The selected firm will invoice the City for services rendered accompanied by the City's required documentation. The City's representative and the appropriate staff in the City's Finance Department must approve payments.

"Green" Procurement: It is the City's objective to be proactive with regard to the environment. The City encourages "Value Purchasing" of environmentally friendly products. Firms are encouraged to clearly identify any green solution in their proposals or a firm may propose a separate alternative "Green" solution, in a separate envelope marked "Green Solution". The Green solution alternative proposal will meet the minimum performance, and delivery standards.

Smoking Prohibition: Pursuant to McKinney Ordinance No. 2013-57, as amended, all City of McKinney owned and rented/leased properties are smoke free properties. All contractors, vendors, subcontractors, and their employees are prohibited from smoking while on City property. This prohibition includes the enclosed areas of public places and workplaces and within 10 feet of doors and windows of City-owned or rented buildings, all city parks and the grounds outside of

any city building. This prohibition includes e-cigarettes and other inhaled vapor devices. The City may terminate the contract for noncompliance with this ordinance.

Certificate of Interested Parties: A contract greater than \$50,000 requires the vendor to electronically create a Certificate of Interested Parties Form 1295 through the Texas Ethics Commission (“TEC”) website (<https://www.ethics.state.tx.us/filinginfo/1295/>) and submit a signed copy of the form to the City prior to the award of the contract. A contract, including a City-issued purchase order, will not be enforceable or legally binding until the City receives and acknowledges receipt of the properly completed Form 1295 from the vendor.

Inquiries and Other Information: All questions or requests for interpretations must be submitted electronically via the “Questions” tab related to this project, 19-62RFQ, on the City of McKinney’s eBid system at <https://mckinney.ionwave.net> prior to 2:00 p.m., CDST, October 18, 2019.

All questions regarding the RFQ submittal process for this project may be forwarded to the contact below:

Rosanne Lemus, CPPB, Contract Administrator
City of McKinney
Purchasing Department
rlemus@mckinneytexas.org

IX. ANTICIPATED SCHEDULE

The following is the proposed schedule for the selection process:

- Sunday, September 22, 2019 – Advertise/Issue Request of Qualifications
- Thursday, October 24, 2019 prior to 2:00 p.m. CDST– Deadline for Receipt of Statement of Qualifications to be delivered to Office of the Purchasing Manager, Building D, 1550 S. College Street, McKinney, Texas 75069
- November 8, 2019 – Contract Award Recommendation and contract negotiations begin
- November 19, 2019 – Selection Committee’s recommendation presented to City Council for consideration and contract award

This timeline is subject to change by the City.

RESPONSE LETTER TO RFQ NO. 19-62RFQ

Lisa Littrell, CPPO, CPPB
Purchasing Manager
1550 South College Street, Building D
McKinney, Texas 75069
P.O. Box 517
McKinney, Texas 75070

Ms. Littrell;

This response is being submitted by the undersigned, on behalf of the Respondent

_____.

The person signing this response on behalf of the Respondent represents to the City that:

- 1) The information provided herein is true, complete and accurate to the best of the knowledge and belief of the undersigned; and
- 2) Respondent has received the Addenda to this RFQ, specifically, Addenda numbered _____.

Executed this _____ day of _____, 2019.

RESPONDENT:

By: _____

Name: _____

Title : _____



ATTACHMENT "A"

VENDOR INFORMATION QUESTIONNAIRE

If this document is not submitted with the bid/proposal, it may be considered non-responsive.

Name of Company:	
Primary/Principal Office Address:	
Telephone Number:	
Email Address:	
DUNS Number (if	

Form of Ownership (check one):

- Corporation State Incorporated/Registered _____ / Date Incorporated/Registered _____
- LLC
- Joint Venture
- Partnership: If Partnership, select one of the following: () Limited or () General
- Individual

Company has been in business since: _____

List of Partners, Principals, Corporate Officers or Owners:

Name	Title

List of Corporate

Directors: Name	Title

Please complete the following questions. THIS FORM MUST BE IN YOUR RFQ SUBMITTAL.

1. Have you had any contracts terminated for default or other performance reasons? Yes No
If yes, explain: _____
2. Has your company been convicted of a criminal offense committed in Collin County, Texas involving fraud, theft, bribery, kickbacks, or unlawful gifts to a public official? Yes No
If yes, explain: _____
3. Is your company involved in pending investigation or criminal prosecution of a criminal offense alleged to have been committed in Collin County, Texas involving fraud, theft, bribery, kickbacks, or unlawful gifts to a public official?
Yes No
If yes, explain: _____
4. Does your company have pending claims, investigations, or civil litigation involving allegations of fraud, misrepresentation, or conversion? Yes No
If yes, explain: _____
5. Does your company have previous final judgments against the City of McKinney for breach of contract, fraud misrepresentation or conversion? Yes No
If yes, explain: _____
6. Has your company failed to timely pay/remit sales tax, property tax, or utility payments to the City of McKinney?
Yes No
If yes, explain: _____
7. Has your company refused to execute a contract following an award by the McKinney City Council?
Yes No
If yes, explain: _____
8. Has your company violated the anti-lobbying provisions in a current or previous City of McKinney procurement process by making contact with a member of the McKinney City Council prior to the award of a contract?
Yes No
If yes, explain: _____

I, _____, as _____
Name of Individual Title & Authority

of _____, declare under oath
Company Name

that the above Statements, including any supplemental responses attached hereto, are true and correct, and that the representations made herein are accurate to the best of my knowledge and are based upon a diligent search of records. I further acknowledge that any failure to conduct a diligent search or to make a full and complete disclosure may result in cancellation of my contract by the City of McKinney, and possibly debarment.

Signature

ATTACHMENT "B"

Sample of City's Professional Services Agreement

THE STATE OF TEXAS §
 § **Professional Services Contract**
COUNTY OF COLLIN§ with _____

THIS CONTRACT is entered into on this _____ day of _____, 20__, by and between the **CITY OF MCKINNEY, TEXAS**, a municipal corporation located in Collin County, Texas, (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee, and _____ ("hereinafter referred to as "CONSULTANT") whose address is _____.

WITNESSETH:

WHEREAS, CITY desires to obtain professional services from CONSULTANT for _____; and

WHEREAS, CONSULTANT is an accounting, professional planning, urban design, or _____ firm qualified to provide such services and is willing to undertake the performance of such services for CITY in exchange for fees hereinafter specified; NOW, THEREFORE,

IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

**I.
Employment of Consultant**

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily provided by competent members of the accounting, professional planning, urban design, or _____ professions, both public and private, currently practicing in the same or similar locality under the same or similar circumstances and professional license including but not limited to the exercise of reasonable, informed judgments and prompt, timely action considering the ordinary professional skill and care of a competent professional accountant, planning professional, urban design professional, or _____ professional. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

**II.
Scope of Services**

CONSULTANT shall perform such services as are necessary to _____ specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.
Payment for Services

Total payment for services described herein shall be a sum not to exceed _____ Thousand _____ and No/100 Dollars (\$_____) ("Total Payment Amount"). CONSULTANT will also be compensated for the following reasonable and documented reimbursable expenses, if any, from the Total Payment Amount to the extent such expenses are directly related to CONSULTANT's performance of the Project, and to the extent the total amount of such reimbursable expenses do not exceed _____ and No/100 Dollars (\$_____): printing; photocopying; reproduction of drawings and specifications; postage; courier delivery services; long distance telephone calls; and, mileage at the allowable rate established by the Internal Revenue Service. Additional expenses, which are extraordinary in nature, shall be approved in advance by CITY in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the CITY pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses not approved in writing in advance by the CITY shall remain the sole responsibility of the CONSULTANT.

CONSULTANT will bill CITY on a percent complete basis in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by CITY in writing to proceed. The scope of services shall be strictly limited. CITY shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless CITY shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to CITY an invoice supporting the percentage complete for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount and a running total balance for the Project to date.

Within thirty (30) days of receipt of each such monthly invoice CITY shall make monthly payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted. Such payments shall be subject to the Texas Prompt Payment Act, Texas Government Code §§ 2251.001, *et seq.*

Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which CITY may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.
Revisions of the Scope of Services

CITY reserves the right to revise or expand the scope of services after due approval by CITY as CITY may deem necessary, but in such event CITY shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide CITY a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by CITY under this Contract, CITY must authorize in writing the nature and scope of the services and accept the method and amount of

compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require McKinney City Council approval and is subject to the current budget year limitations.

**V.
Term**

This Contract shall begin on the date first written above, and shall terminate when CITY has approved the Project as being final or otherwise terminates this Contract as provided herein.

**VI.
Contract Termination Provision**

This Contract may be terminated at any time by CITY for any cause by providing CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract. CONSULTANT shall invoice CITY for all Services completed and shall be compensated in accordance with the terms of this Contract for all Services performed by CONSULTANT through the date such written notice of termination is received by CONSULTANT.

**VII.
Ownership of Documents**

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of CITY and shall be delivered to CITY without restriction on future use. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance Requirements

- A. Before commencing work, the consultant shall, at its own expense, procure, pay for and maintain during the term of this Contract the following insurance written by companies approved by the state of Texas and acceptable to the City of McKinney. The consultant shall furnish to the City of McKinney Purchasing Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City of McKinney
Attn: Lisa Littrell
PO Box 517
McKinney, Texas 75070
Or email to:
littrell@mckinneytexas.org

1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum

combined single limits of \$1,000,000 per-occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

2. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$100,000 each accident, b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.
4. Professional Liability Insurance to provide coverage against any claim which the consultant and all consultants engaged or employed by the consultant become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000 per claim, \$2,000,000 annual aggregate.

NOTE: If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than *thirty-six (36) months* following completion of the contract and acceptance by the City of McKinney.

B. With reference to the foregoing required insurance, the consultant shall endorse applicable insurance policies as follows:

1. A waiver of subrogation in favor of City of McKinney, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
2. The City of McKinney, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader; and, the City of McKinney shall be provided a defense to any and all claims and causes of action arising out of or related to this Agreement as may be provided pursuant to CONSULTANT's general liability insurance policies.

Nothing contained in Section XII of this Agreement shall be interpreted or applied as limiting, reducing, or eliminating any obligation or duty that CONSULTANT's insurance carrier may owe to CITY as an additional insured, pursuant to endorsement CG2026 or broader under the CONSULTANT's general liability insurance policies required by this Agreement, to provide the CITY with a defense and/or indemnify the CITY for any claim or cause of action, whether one or more, regardless of the proportionate responsibility or liability of the CONSULTANT or the CITY. Neither shall anything contained in this Section VIII be interpreted or applied as providing or otherwise entitling either CONSULTANT, CONSULTANT's insurance carrier or any other party any right or ability to recover over against CITY any amounts of money attributable to damages, costs, expenses and/or attorneys' fees based on or arising out of a finding of comparative or proportionate responsibility or liability as against the CITY it being understood and agreed that CITY in no way intends by this Agreement to waive its sovereign immunity regarding any claim, suit or cause of action.

- 3.. All insurance policies shall be endorsed to the effect that City of McKinney will receive at least thirty (30) days' notice in advance of the cancellation effective date of any policy of insurance that is cancelled by the insurance company for any reason other

than nonpayment of premium.

4. All insurance policies shall be endorsed to the effect that City of McKinney will receive at least ten (10) days' notice in advance of the cancellation effective date of any policy of insurance that is cancelled by the insurance company for nonpayment of premium or by CONSULTANT for any reason.
- C. All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.
- D. The CONSULTANT shall notify CITY in writing at least thirty (30) days prior to CONSULTANT cancelling or making any material change to any coverage(s) provided in, or through, the insurance policies required under this Section VIII. Failure by CONSULTANT to provide CITY the notice required hereunder may, in the sole discretion of CITY, be deemed a material breach of this Agreement.

IX. Right to Inspect Records

CONSULTANT agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that CITY shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. CITY shall give CONSULTANT reasonable advance notice of intended audits.

CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that CITY shall have access during normal working hours to all such engineer or sub-contractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. CITY shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X. Successors and Assigns

CITY and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither CITY nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI. CONSULTANT's Liability

Acceptance of the final plans by the CITY shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants.

XII.
INDEMNIFICATION

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONSULTANT'S PERFORMANCE UNDER THIS CONTRACT AND WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONSULTANT, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONSULTANT OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONSULTANT IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002(B).

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY, AS WELL AS INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER.

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES IN PROPORTION TO THE CONSULTANT'S LIABILITY AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY IN PROPORTION TO THE CONSULTANT'S LIABILITY.

In its sole discretion, the CITY shall have the right to approve counsel to be retained by CONSULTANT in fulfilling its obligation to defend and indemnify the CITY. CONSULTANT shall retain approved counsel for the CITY within seven (7) business days after receiving written notice from the CITY that it is invoking its right to indemnification under this Contract. If CONSULTANT does not retain counsel for the CITY within the required time, then the CITY shall have the right to retain counsel and the CONSULTANT shall pay these reasonable attorneys' fees in proportion to the CONSULTANT'S liability plus expenses. The CITY retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to take such action.

XIII.
Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of CITY in the performance of this Contract. No term or provision of or act of CONSULTANT or CITY under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONSULTANT.

XIV.
Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to CITY to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse CITY for such excess. CONSULTANT'S liability under this provision shall be limited to the total dollar amount of this Contract.

CITY's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at CITY's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to CITY; or,
- (c) Monetary damages in an amount not to exceed the greater of:
 - (1) The amount of any applicable insurance coverage CONSULTANT is required to purchase and maintain under this Contract plus any deductible amount to be paid by CONSULTANT in conjunction with said coverage regardless of whether CONSULTANT has actually purchased and maintained said coverage; or,
 - (2) The total dollar amount of this Contract.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XV. Changes

CITY may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between CITY and CONSULTANT shall be incorporated by written modification to this Contract.

XVI. Conflict of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

In addition, CONSULTANT shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission ("Commission") at the time CONSULTANT submits this signed Contract to CITY, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. The CONTRACTOR must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the CONTRACTOR must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be filed with the CITY.

The CITY must notify the Commission, using the Commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Contract binds all parties to the Contract. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

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

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

XVII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of McKinney, its affiliates and subsidiaries, and all oral and written information concerning CITY or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority.

XVIII.
Mailing Address

All notices and communications under this CONTRACT to be mailed to CITY shall be sent to the address of CITY's agent as follows, unless and until CONSULTANT is otherwise notified:

City of McKinney
Post Office Box 517
McKinney, Texas 75069.

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until CITY is otherwise notified:

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XIX.
Applicable Law

The CONTRACT is entered into subject to the McKinney City Charter and ordinances of CITY, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income. Situs of this Contract is agreed to be Collin County, Texas, for all purposes, including performance and execution.

XX.
Severability

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

XXI.
Remedies

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

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in McKinney, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Collin County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (CITY and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with CITY or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or CONSULTANT.

XXVII.
No Boycotting of Israel

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

Chapter 2270 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this contract on behalf of the company verifies by its signature on this Contract that the company does not boycott Israel and will not boycott Israel during the term of this contract.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

CITY OF McKINNEY

By: _____
PAUL G. GRIMES
City Manager

Date Signed: _____

ATTEST:

SANDY HART, TRMC, MMC
City Secretary
DENISE VICE, TRMC
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

(Consultant's Name)

By: _____

Name: _____

Title: _____

Date Signed: _____

THE STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared PAUL G. GRIMES, City Manager of the **CITY OF MCKINNEY**, a Texas Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the City's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____
DAY OF _____, 20_____.

Notary Public Collin County, Texas
My commission expires _____

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20_____,
by _____ in his capacity as _____ of _____,

a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 20_____.

Notary Public _____ County, Texas
My commission expires _____

EXHIBITS

EXHIBIT 1 – SCOPE OF SERVICES AND DELIVERABLES (PROVIDED BY CONSULTANT)

EXHIBIT 2 – DETAILED FEE SCHEDULE (PROVIDED BY CONSULTANT)

EXHIBIT 3 – PROJECT SCHEDULE (PROVIDED BY CONSULTANT)

EXHIBIT 4 – AUTHORIZATION OF CHANGE IN SERVICE FORM

EXHIBIT 5 – FEDERALLY REQUIRED PROVISIONS

EXHIBIT 6 – ACCOUNTABILITY AND TRANSPARENCY ACT FORM

EXHIBIT 7 – MBE/WBE SECTION 3 FORM

EXHIBIT 1
SCOPE OF SERVICES AND DELIVERABLES
(CONSULTANT TO PROVIDE)

EXHIBIT 2
DETAILED FEE SCHEDULE
(CONSULTANT TO PROVIDE)

EXHIBIT 3
PROJECT SCHEDULE
(CONSULTANT TO PROVIDE)

EXHIBIT 4
AUTHORIZATION OF CHANGE IN SERVICE

AGREEMENT/ SERVICES NAME:		
CITY REPRESENTATIVE:		
CONTRACTOR:		
CONTRACT EFFECTIVE DATE:		
THIS AUTHORIZATION DATE:		AUTHORIZATION NO.:

DESCRIPTION OF WORK TO BE ADDED TO OR DELETED FROM SCOPE OF SERVICES:

Original Contract Amount:	NTE	\$
Previous Increases/Decreases in Contact	NTE	\$
This Increase/Decrease in Contract Amount:	NTE	\$
Revised Contract Amount:	NTE	\$

CONTRACTOR:

Signature _____

Date _____

Print Full Name / Title (if not in individual capacity) _____

CITY:

Signature _____

Date _____

Print Name _____

Title _____

City Department Use Only Below This Line (PM, etc.).

Account Number(s):		
#	{Date}	{Amount}
#	{Date}	{Amount}
#	{Date}	{Amount}

EXHIBIT 5
FEDERALLY REQUIRED PROVISIONS

A. COPELAND ANTI-KICKBACK ACT COMPLIANCE

The Professional Firm will comply with the requirements of 29 CFR Part 3 (the Copeland Act). The "Anti- Kickback" section of the Act precludes a contractor or subcontractor from inducing an employee -- in any manner -- to give up any part of his/her compensation to which he/she is entitled under his/her contract of employment.

B. CONFLICTS OF INTEREST (24 CFR 570.611; 2 CFR 200.112 AND 200.318(c); 24 CFR 85.35; AND 24 CFR 84.42

There are two sets of conflict of interest provisions applicable to activities carried out with CDBG funding. The first set, applicable to the procurement of goods and services by subrecipients (*funded applicants*), is the procurement regulations located at 24 CFR 84.42 and 85.36. The second set of provisions is located at 24 CFR 570.61 I(a)(2). These provisions cover situations not covered by parts 84 and 85.

With respect to procurement activities, the Professional Firm must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. At a minimum, these standards must:

- 1) Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:
 - a) An employee, officer, or agent' of the Professional Firm;
 - b) Any member of an employee's, officer's, or agent's immediate family;
 - c) An employee's, agent's, or officer's partner; or
 - d) An organization which employs or is about to employ any of the persons listed in the preceding sections.
- 2) Require that employees, agents, and officers of the Professional Firm neither solicit nor accept gratuities, favors, or anything of value from contractors, or parties to sub-agreements. However, Professional Firms may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- 3) Provide for disciplinary actions to be applied for any violations of such standards by employees, agents or officers of the subrecipient.

With respect to all other CDBG-assisted activities, the general standard is that no employee, agent or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG funds and activities is allowed to obtain a financial interest in or benefit from CDBG activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds for the activities. Specific provisions include that:

- a) This requirement applies to any person who is an employee, agent, Professional Firm, officer, or elected or appointed official of the City, a designated public agency, or a subrecipient, and to their immediate family members and business partner(s).
- b) The requirement applies for such persons during their tenure and for a period of one year after leaving the grantee or subrecipient organization.
- c) Upon written request, exceptions may be granted by HUD on a case-by-case basis.

C. CERTIFICATION OF ELIGIBILITY

By submitting a proposal in response to the Invitation for Bids, the Professional Firm certifies that at the time of submission, he/she/it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p 189) and 12689 (3 CFR part 1989 Comp., p 235), "Debarment and Suspension".

- 1) In the event of placement on the list between the time of bid/proposal submission and time of contract award, the bidder/proposer will immediately notify the City.
- 2) Professional Firm certifies that its subcontractors are not presently debarred, suspended, or proposed for debarment, declared ineligible or voluntarily excluded from participation in any state or federal program.
- 3) Placement of Professional Firm on the federal government's list of suspended, ineligible, or debarred contractors, false certification, or failure to notify City as required may result in City's termination of this Contract for default.
- 4) Contractor will furnish a copy of the certification in accordance with 24 C.F.R. Part 24 (Debarment and Suspension). The Contractor and all subcontractors will be active and not debarred on the website, www.sam.gov and provide a copy of the certification to the City before the entity performs work under this contract.

The Contractor must ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension" and the UAR. Contractor will have each contractor and subcontractor complete a contractor eligibility form in a format that is provided or approved by the City. This form will provide the information necessary to verify contractor eligibility.

D. NON-COLLUSION CERTIFICATION

The Professional Firm certifies that, if a proposal was provided that resulted in a contract, that proposal was made without collusion with any other person, firm or corporation.

E. BYRD ANTI-LOBBYING AMENDMENT

(31 U.S.C. 1352) Contractors that bid for an award exceeding \$100,000 must file the required certification that it will not and has not used Federal appropriated funds to pay any persons or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

F. SECTION 3 COMPLIANCE

Compliance with Section 3 [These provisions are applicable to projects for which the amount of HUD

assistance exceeds \$200,000 and the contract or subcontract exceeds \$100,000.]

- 1) The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD- assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low-and very low- income persons, particularly persons who are recipients of HUD assistance for housing.
- 2) The parties to this Contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- 3) The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 4) The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.
- 5) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 C.F.R. Part 135.
- 6) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.
- 7) When required, Contractor shall furnish the City or HUD with satisfactory proof of its compliance herewith.

G. COMPLIANCE WITH RULES AND REGULATIONS

The Professional Firm will comply with all of the applicable uniform administrative regulations related to the application, acceptance and use of federal funds as contained in 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Professional Firm is encouraged to obtain the necessary information but failure to do so will not relieve it from compliance with the applicable regulations. The Professional Firm will be responsible for compliance and conformance with applicable federal and state laws, rules, regulations and codes, City permitting requirements, and City ordinances currently in effect. Federal and state laws, rules, regulations and codes include but are not limited to:

a. **WORKERS COMPENSATION LAWS:**

- 1) Minimum and maximum salary and wage statutes and regulations, including but not limited to:
 - a) Fair Labor Standards Act of 1938, as amended;
 - b) Equal Pay Act of 1963, PL 88-38; and
 - c) All applicable regulations implementing the above laws;
- 2) Non-discrimination statutes and regulations, including but not limited to:
 - a) Title VII of the Civil Rights Act of 1964, as amended;
 - b) Section 504 of the Rehabilitation Act of 1973, as amended;
 - c) The Age Discrimination Act of 1975, as amended; and
 - d) all applicable regulations implementing the above laws;
- 3) Licensing laws and regulations;
 - a) Compliance with Texas Accessibility Standards ("TAS") and ADA requirements, issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, or other applicable Texas law;
- 4) Requirements under the Architectural Barriers Act and the Americans with Disabilities Act set forth in 24 C.F.R. Section 570.614;
- 5) All applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401- 7671q), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387, as amended.
- 6) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (PUB L 94-163, 89 Stat. 871) codified at 42 U.S.C.A. Section 6321 et seq.;
- 7) National Environmental Policy Act ("NEPA") including Environmental Protection Agency regulations (40 C.F.R. Part 15), applicable HUD regulations set forth in 24 C.F.R. Parts 50 and 58 including authorities cited therein, and National Historic Preservation Act of 1966, including Federal Historic Preservation Regulations (36 C.F.R. Part 800), which require environmental clearance of federal aid projects; and in connection with NEPA requirements, Professional Firm is responsible for the preparation of NEPA documents required for environmental clearance of the Project covered hereunder; G) 24 C.F.R. Section 5.105, including applicable authorities cited therein, as well as applicable provisions of 24 C.F.R. Part 58, including Section 58.5 and applicable authorities cited therein and Section 58.6 and applicable authorities cited therein.

b. **AFFIRMATIVE ACTION - WOMEN-AND MINORITY-OWNED BUSINESSES (W/MBE)**

The Contractor will take all necessary affirmative steps to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-

Americans, and American Indians. The Contractor may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

Affirmative steps must include:

- i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- ii. Assuring that small and minority businesses, and women's business enterprises, are solicited whenever they are potential sources.
- iii. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
- iv. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- v. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

c. **LABOR STANDARDS**

The Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement.

The Contractor agrees to comply with the Copeland Anti-Kick Back Act (18U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Contractor agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Contractor of its obligation, if any, to require payment of the higher wage. The Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

d. **USE OF ASSETS AND ASSET REVERSION**

City assets used by the Contractor during the contract shall be given back to the City at the conclusion of the contract.

e. **PROGRAM INCOME**

The City will accept and report program income to the federal government.

f. **FEDERAL FUNDING AND ACCOUNTABILITY TRANSPARENCY ACT (FFATA)**

Contracts equal to or greater than \$25,000 must be entered into the Federal Service Reporting System. Contractor information is needed to complete the compliance reporting for the Federal Funding and Accountability Transparency Act. The Contractor will complete the Federal Funding and Accountability Transparency Act form attached to this Contract.

g. **LOBBYING**

The Contractor hereby certifies that:

- (i.) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- (ii.) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- (iii.) It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Contractors shall certify and disclose accordingly:
- (iv.) Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

h. **RELIGIOUS ACTIVITIES**

The Contractor agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200G), such as worship, religious instruction, or proselytization. The acquisition, construction, or rehabilitation of structures used for inherently religious activities is not allowable under this program.

i. **COPYRIGHT**

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

j. **EQUAL EMPLOYMENT OPPORTUNITY**

The Professional Firm will comply with Executive Order 11246 of 9/24/65, entitled "Equal Employment Opportunity," (30 FR 12319, 12935, 3 CFR Part, 1964-65 Comp., p. 339) as amended by Executive Order #11375 of 10/13/67, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).

EXHIBIT 6
FEDERAL FUNDING AND ACCOUNTABILITY
TRANSPARENCY ACT CONTRACTOR FORM

Contracts equal to or greater than \$25,000 must be entered into the Federal Service Reporting System. The following Contractor information is needed to complete the compliance reporting for the Federal Funding and Accountability Transparency Act:

Contractor EIN _____

Contractor DUNS Number _____

Contractor Legal Name _____

Subawardee Address _____

Subawardee Principal Place of Performance (including congressional district)

Has the Contractor met all of the following conditions? _____

- **80% or more** of prior year annual gross revenues are from Federal awards;
- **\$25 million or more** in annual gross revenues are from Federal awards; **and**
- The public does **not** have access to compensation information filed under *Securities and Exchange Commission (SEC)* and IRS requirements.

If the Contractor has met **ALL** of the above conditions, please provide the total compensation and names of top five executives of the Contractor.

Number	Total Compensation	Name of Executive (Top 5)
1		
2		
3		
4		
5		

EXHIBIT 7
MBE/WBE/Section 3

Instructions: If the Respondent is a Minority Owned Business (MOB) or Women Owned Business (WOB) or qualifies as a Section 3 business, the Respondent completes Form F.1., and if the Respondent intends to utilize a MOB/WOB or Section 3 business in the performance of the proposed contract, the respondent completes Form F.2

F.1: CERTIFICATION AS A MINORITY OWNED, WOMEN OWNED OR SECTION 3 BUSINESS

I, _____ certify that _____ is a Minority Owned, Women Owned or Section 3 Business.

Business Registered Name

Business Registered Address 1

State of Registration: _____

Certificate or Registration Number: _____

Certifying Agency: _____

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The City reserves the right to withdraw or terminate the proposed contract should the representation of fact be false.

Signature and Date

Printed Name

Position

F.2: STATEMENT OF INTENT OF MOB/WOB/SECTION 3 UTILIZATION

I, _____ certify that _____ will utilize **Minority Owned Business (MOB)** or **Women Owned Business (WOB)** as subcontractor(s), vendor(s), supplier(s), or professional service(s). The estimated **dollar value** of the amount that we plan to pay the MOB or WOB subcontractor(s), vendor(s), supplier(s), or professional service(s) is \$_____.

Description of Work	MOB Amount \$	Race/Ethnicity	WOB Amount \$	Section 3 Amount \$	Name of MOB/WOB/Section 3 Organization/Address

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The City reserves the right to withdraw or terminate the proposed contract should the representation of fact be false.

Signature Printed Name Date

Position Title _____