

CITY OF SEGUIN, TEXAS

REQUEST FOR QUALIFICATIONS:

**LAND SURVEYING SERVICES
FOR
SIDEWALK IMPROVEMENTS**

RFQ #TF-2016-33

Proposals must be submitted no later than:

**June 28, 2016
2:30 p.m. (Central Standard Time)**

1. GENERAL INFORMATION

The City of Seguin (City) is soliciting Statements of Qualification from qualified firms to provide Land Surveying and related professional services relative to a Sidewalk Improvement Project within the Main Street area of the City. This Project will be funded by the Texas Community Development Block Grant (TxCDBG) Program 2015 Texas Capital Fund (TCF) Real Estate and Infrastructure (RE/Infra) Program.

1.1 Background

In February 2016 the City of Seguin was awarded funding for sidewalk improvements in the Main Street area. The Project will consist of approximately eight hundred linear feet (800 l.f.) of concrete sidewalks of varying widths, eighteen (18) ADA compliant ramps, four (4) ADA curb extension bulb-outs and all necessary appurtenances. These improvements shall be in the following locations:

STREET	FROM	TO
North and South sides of Nolte St.	S. Camp St.	S. River St.
S. Camp St.	W. Washington St.	W. Nolte St.
North side of Washington St.	S. Camp St.	S. River St.
East and West sides of S. River St.	E. Washington St.	E. Nolte St.

1.2 Quantity

The City anticipates selecting one (1) firm to provide the surveying services. Engineering design will be performed by City staff. The City is seeking to contract with a competent land surveying firm, registered to practice in the State of Texas, that has had experience in the following areas:

- Municipal construction
- Federally- funded construction projects; and
- Projects located in this general region of the state

1.3 Regulations

All work must be performed in compliance with applicable federal and state regulations.

1.4 Consulting Contracts - Prohibition on Follow-On Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

1.5 Procuring and Contracting Agency

1.5.1 Point of Contact

The City of Seguin issues this Request for Qualifications (RFQ) and is the sole point of contact during the selection process.

1.5.2 Contract Administration

City of Seguin will administer the contract resulting from this RFQ. The contract administrator is:

Kyle Kramm
Main Street Director/HPO
P.O. Box 591
Seguin, Texas 78156

Office: 830.401.2448
Cell: 210.779.0468
Email: kkramm@sequintexas.gov
Web Site: www.sequintexas.gov

1.6 Definitions

The following definitions are used in this RFQ:

- "Consultant" means the firm selected from this RFQ.
- "Department" or "City" means the City of Seguin.
- "Proposer" means a firm submitting a proposal in response to this RFQ.

1.7 Clarification of the Specifications and Requirements

If additional information is necessary to assist the Proposer in interpreting these specifications, questions will be accepted by:

Name: Michael Sharp, Engineering Associate
Email: msharp@seguintexas.gov
Subject: "TCF Sidewalk Surveying RFQ Question"

Questions must be received by email by June 22, 2016 by 5:00 p.m. Central Standard Time (CST) to receive a response.

The Timetable for the RFQ process is:

EVENT	DATE
RFQ issued	June 10, 2016
All Proposer's questions must be received by	June 22, 2016 by 5:00 p.m. CST
All Proposer's questions will be answered by	June 24, 2016
WRITTEN PROPOSALS MUST BE RECEIVED BY THE CITY OF SEGUIN	June 28, 2016 by 2:30 p.m. CST
Evaluation/Interview process complete (estimated)	July 15, 2016
Proposer contract negotiation complete (estimated)	July 22, 2016
Contract awarded (estimated)	August 2, 2016

1.8 Contract Term

Length of contract shall be approximately 6 months. The contract may be extended no more than 2 times for periods of 6 months each. Proposals may vary from these guidelines by no more than 30 percent.

1.9 Expenses

Covered expenses will be paid on a reimbursement basis in accordance with this RFQ.

1.10 Insurance

Prior to beginning work the successful Proposer shall have on file with the City of Seguin a Certificate of Insurance covering Professional Liability and other coverages as required and as defined on the Insurance Requirements document included herein.

2. PREPARING AND SUBMITTING A PROPOSAL

2.1 Evaluation and Selection

The evaluation and selection of a Consultant will be based on the information submitted in the proposal and information gathered from references provided in the proposal or others with knowledge of a firm's work and experience. Proposers should respond clearly and completely to all requirements. Failure to respond completely may be the basis for rejecting a proposal.

Elaborate proposals (e.g., expensive artwork) beyond that sufficient to present a complete and effective proposals are not necessary or desired. Proposals should not exceed fifteen (15) double-sided or thirty (30) single-sided pages.

2.2 Incurring Costs

The City of Seguin is not liable for any cost incurred by Proposers in replying to this RFQ.

2.3 Submitting the Proposal

The Proposer must submit one (1) original plus four (4) electronic copies of the proposal to the City of Seguin. Acceptable electronic media include compact discs and portable hard drives (a.k.a. thumb drive, flash drive, etc.) Electronic media should be clearly and individually marked with the Firm's name.

All proposals must be packaged, sealed, and have the following written information on the outside of the package:

1. Proposer's Name and Address
2. Proposal for: "**Land Surveying Services**"
3. RFQ: #TF-2016-33
4. Proposal Due Date, **June 28, 2016** at **2:30 p.m.** Central Standard Time.

The proposal packages must be delivered to:

Via USPS:

City Manager
City of Seguin
P O Box 591
Seguin, Texas 78156-0591

Via Courier or Overnight Deliver:

City Manager
City of Seguin
205 N. River Street
Seguin, Texas 78155

The City of Seguin must receive all proposals no later than **2:30 P.M. CST on June 28, 2016**. Proposers mailing their proposals must allow sufficient time for delivery of their proposal by the time and date specified. Late proposals will not be accepted.

2.4 Proposal Organization and Format

The original Proposal should be submitted on 8.5 by 11-inch paper bound securely. The sample survey should be included on 11x17-inch paper. Electronic proposals shall be formatted likewise. Proposals must be organized with the following headings and subheadings. **Each heading and subheading should be separated by tabs or otherwise clearly marked.** Divider pages are not included in the maximum page count indicated in Section 2.1 above.

1. Signature Cover Page
2. Introduction
3. Proposer Data Sheet (ATTACHMENT A)
4. Organizational and Staff Qualifications
5. Previous Project Information
6. Reference Data Sheet (ATTACHMENT B)

3. PROPOSAL SELECTION AND AWARD PROCESS

3.1 Proposal Scoring and Selection

A review panel composed of representatives from the City of Seguin staff and City Council will make the selection. The panel will review and score all proposals received. Selection will be based on evaluation of the written proposals and information gathered from references provided in the proposal or others with knowledge of a firm's previous work and experience. Responding to this RFQ constitutes understanding and agreement to methods of evaluation and selection.

3.2 Evaluation Criteria

<u>Criteria</u>	<u>Weight</u>
▪ Experience	50%
○ Recent experience with similar projects	
○ Previous work on federally funded construction projects	
○ Previous experience on projects located in this general region	
○ Staff experience and qualifications	
▪ Previous Work Performance	25%
○ Past projects completed on schedule	
○ Manages projects within budgetary constraints	
○ Work products are of high quality	
○ Effectiveness of the firm's quality assurance methods	
▪ Capacity to Perform	25%
○ Availability / Proposed project schedule	
○ Adequacy of resources including equipment availability	
○ Method to perform the work	
○ Professional liability insurance in force	
MAXIMUM SCORE	100%

3.3 Right to Reject Proposals and Negotiate Contract Terms

The City of Seguin reserves the right to reject any and all proposals. The City of Seguin reserves the right to negotiate the terms of the contract, including the reimbursement rates, with the selected Proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring Proposer, City of Seguin may negotiate a contract with the next highest scoring Proposer and so on until an agreement is reached.

4. GENERAL PROPOSAL REQUIREMENTS

The Statement of Qualification submitted should respond to the following requirements:

4.1 Organizational Capabilities

- Business Organization -
 - Give name and address of submitting organization.
 - Identify a designated contact in your organization and list telephone number, fax number, and e-mail address.

- Understanding of Project -
 - Illustrate your understanding of the scope of work and related project activities.
 - Describe your involvement in similar projects.
 - Describe your involvement in projects that included federal funding.
 - Be specific and identify project dates and results.

- All firms must have experience in Conventional and GPS Surveying.

4.2 Staff Qualifications

The proposal must identify and include resumes for specific staff to be committed to this project. Describe their experience and indicate what their role(s) in the project will be. Key personnel must present a minimum of 5 years of related work experience and include relevant experience on similar projects.

4.3 Schedule Adherence

Proposers shall indicate their ability to begin work on this project within 30 days of contract award, and propose a schedule of milestones for each deliverable. The firm's history in completing all deliverables on schedule should be documented. Likewise, experience in aggressive project start-up should be noted.

4.4 Evaluation Criteria

Other information as required should be included in the proposal to adequately respond to or address the evaluation criteria as listed in Item 3.2 above.

4.5 Sample

As part of the submittal package, please provide one (1) example of a completed survey, to scale, on 11x17 format for review by the evaluation committee.

5. TECHNICAL REQUIREMENTS

The survey document will be utilized for preparation of construction documents associated with a proposed accessibility project which includes approximately eight hundred linear feet (800 LF) of concrete sidewalk of varying widths, eighteen (18) ADA compliant ramps, four (4) ADA curb extension bulb-outs, and all necessary appurtenances.

The Land Surveying Services will include a limited boundary and topographic survey of the following:

- Location of existing sidewalks
- Curb lines (top and gutter grade elevations)
- Accessible ramps
- Doorway openings/thresholds
- Utility poles and signage
- Location of visible utilities included depth and size verification (as-built), location of pavement marking in association with the 811 locate process, pavement scars indicative of potential utilities
- Landscaping features including shrubs, mailboxes, or planting areas
- Parking striping/markings adjacent to the area(s) of survey
- Other projections or obstructions which would impact construction of the proposed sidewalk route.
- Developed Legal Description/Field Note Exhibit(s) for right-of-way or easements as necessary (as a separate contract item)

The Survey will be utilized for preparation of a set of Construction Documents for accessible sidewalks within Downtown Seguin. The level of detail of the survey will be sufficient to allow the Engineer to analyze the existing grades within the survey limits and provide a design for construction which meets both Federal (American Disabilities Act) and State (Texas Accessibility Standards) requirements.

The completed survey will be required to be distributed to the City in both hard copy and AutoCAD formats based upon the North American Datum of 1983 (CORS 1996) from the Texas Coordinate System Established for the South Central Zone. The Vertical Datum will be based upon several existing construction bench marks established within the City of Seguin and adjacent to Central Square.

6. WORK HOURS

- a. Services shall be provided during normal business hours unless otherwise approved and coordinated with the City of Seguin.
- b. Normal business hours are Monday through Friday from 8:00 am through 5:00 pm, excluding City holidays.
- c. The consultant may be required to work on weekends, evenings, and holidays. The City of Seguin will not pay an overtime rate for this service.
- d. The consultant will provide appropriate signage and safety measures for the survey field crew(s) during work hours at no additional charge to the City.

7. CONTRACT TERMS, CONDITIONS AND REQUIREMENTS

The successful Proposer and the City of Seguin will enter into a contract for the services described in this RFQ. Failure of the successful Proposer to accept the obligations of a contractual agreement may result in a cancellation of the award.

8. RESTRICTIONS ON LOBBYING ACTIVITIES

Respondents are prohibited from directly or indirectly communicating with City Council members regarding the firm's qualifications or any other matter related to the eventual award of a contract for the services requested under this solicitation. Respondents are prohibited from contacting City staff members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff member. Any violation will result in immediate disqualification of the respondent from the selection process.

Upon issuance of this solicitation, all communications and requests for clarification or objections shall be directed in writing to the Purchasing Manager for response, determination and dissemination to all firms. Any communication by firms or their representatives toward other city officers or employees regarding this solicitation or the award of a contract are prohibited and will constitute grounds for disqualification of a proponent.

9. REQUIRED FORMS

The following forms must be completed and submitted with the proposal.

1. Submission letter signed by authorized member of the organization
2. Proposer Data Sheet (Attachment A)
3. Reference Data Sheet (Attachment B) 3 references required

ATTACHMENT A - PROPOSER DATA SHEET

1. Proposing Company Name: _____

City: _____ State: _____

Federal Employer Identification Number: _____

OR Social Security Number (if sold proprietorship): _____

Corporation YES [] NO []

2. Proposal Contact Person

Name: _____

Title: _____

Phone: _____ Fax Phone: _____

Email: _____

3. Mailing address where reimbursements are to be mailed and person the department should contact concerning billing.

Name: _____

Title: _____

Phone: _____ Fax Phone: _____

Email: _____

4. Is the firm submitting this proposal an individual?

YES [] NO []

5. If yes, has the individual been employed by a state agency at any time during the past two years?

YES [] NO []

6. If yes, in compliance with Texas Government Code 2254.033, please attach a separate sheet to explain:

A. The nature of the previous employment with the state

B. The date the employment terminated

The annual rate of compensation for the employment at the time of its termination

ATTACHMENT B - REFERENCE DATA SHEET

PROVIDE AT LEAST THREE REFERENCES
REPRODUCE SHEET AS NECESSARY

PROPOSER

Provide client name, location, contact person, telephone number and appropriate information on contracted services that are similar to this solicitation document.

Client: _____

City: _____ State: _____

Contact Person: _____ Title: _____

Phone Number: _____

Project Begin & End Date: _____

Services Provided: (Be sure to describe your involvement in the project: principal firm, multi-firm collaboration, sub-consultant)

INSURANCE REQUIREMENTS

The Vendor will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Vendor or its agents, subcontractors or employees. Before commencing the work the Vendor will furnish to the City an original certificate or certificates in a form satisfactory to the City, showing that Vendor has complied with this paragraph.

The Vendor shall not cause any insurance policy to be cancelled or permit it to lapse, and all insurance policies shall include an endorsement to the effect that the insurance policy shall not be subject to cancellation or to a reduction in the required limits of liability or amounts of insurance until notice has been mailed to the City of Seguin, ATTN: Director of Finance, P.O. Box 591, Seguin, TX 78156-0591. The notice shall state the date when such cancellation or reduction shall be effective. The cancellation date shall not be less than thirty (30) days after such notice.

Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier's right of subrogation against the City. The types and amounts of insurance required are set forth below:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Professional Liability	\$1,000,000 combined single limits
3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$500,000 per occurrence

The stated limits of insurance are **minimum only**. They do not limit the Vendor's indemnity obligation, and it will be the Vendor's responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. The City's acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Vendor from compliance with these requirements.

The Vendor will indemnify, hold harmless and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional acts errors or omissions of the Vendor, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims demands and causes of action for personal injuries, death or damages to property alleged or actual infringement of patents, copyrights, and trademarks and without limitation by enumeration, all other claims, demands, or causes of action of every character occurring, resulting, or arising from any negligent or intentional wrongful act, error or omission of the Vendor or its agents or employees. This obligation by the Vendor will not be limited by reason of the specification of any particular insurance coverage required under this Agreement. The vendor shall, at all times during the period in which contract is in force and effect, provide and maintain insurance of the type in limits as set forth below. Such insurance shall name the parties required to secure same as insurance and shall include the City of Seguin as an "additional insured" furnished to the City of Seguin before the commencement of any service under this contract. If requested by the City of Seguin, the vendor shall furnish the City of Seguin with true copies of each policy required by him/her.

AGREEMENT

LAND SURVEYOR SERVICES

PART I

THIS AGREEMENT, entered into this ____ day of _____, by and between the CITY OF SEGUIN, hereinafter called the "City", acting herein by _____ hereunto duly authorized, and _____ hereinafter called "Firm," acting herein by _____.

WITNESSETH THAT:

WHEREAS, the City of Seguin desires to contract with a qualified firm to provide Land Surveying and related professional services relative to a Sidewalk Improvement Project within the Main Street area of the City under the general direction of the Texas Community Development Block Grant (hereinafter called "TxCDBG") Program of the Texas Department of Agriculture (TDA); and Whereas the City desires to engage _____ to render certain surveyor services in connection with the TxCDBG Project, Contract Number _____.

NOW THEREFORE, the parties do mutually agree as follows:

1. Definitions:

Throughout this document:

- a. "Agreement" refers to this contract between the City and the Firm to assist with the surveying of all or any portion of a community development block grant from the Texas Department of Agriculture.
- b. "Firm" refers to the professional services provider engaged to assist the City with the surveying of all or a portion of a community development block grant from the Texas Department of Agriculture.
- c. "Parties" refer to the Firm and the City .

2. Scope of Services

The Firm will perform the services set out in Part II, Scope of Services.

3. Time of Performance - The services of the Firm shall commence on _____. In any event, all of the services required and performed hereunder shall be completed no later than _____.

4. Local Program Liaison - For purposes of this Agreement, the City Manager or equivalent authorized person or his designee will serve as the Local Program Liaison and primary point of contact for the Firm. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

5. Access to Information – The Comptroller General of the United States, the City / County, the Texas Department of Agriculture, and the Texas State Auditor’s Office, , the U.S. Department of Housing and Urban Development (HUD), or any successor agency or representative, shall have access to any books, documents, papers and records relating to the Firm’s agreement with the City or the administration, construction, engineering or implementation of the TxCDBG award between TDA and City / County.

6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$ _____. Payment to the Firm shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Agreement.

7. Indemnification – The Firm shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against any and all claims, costs, suits, and damages, including attorney’s fees, arising out of the Firm’s performance or nonperformance of the activities, services or subject matter called for in this Agreement, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.

8. Miscellaneous Provisions
 - a. This Agreement shall be construed under and accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Guadalupe County, Texas.
 - b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
 - c. In any case one or more of the provisions contained in this Agreement 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 thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
 - e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to an incorporated into this Agreement.

9. Extent of Agreement

This Agreement, which includes Parts I-V and all portions of RFQ #TF-2016-33 represents the entire and integrated agreement between the City and the Firm and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of both City and the Firm.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

BY: _____
Douglas G. Faseler , City Manager

BY: _____
(Firm/Contractor's Authorized Representative)

(Printed Name)

(Title)

PART II

SCOPE OF SERVICES

The Firm shall render the professional surveying services necessary as defined in RFQ# TF-2016-33.

SUBCONTRACTS

1. No work under this Agreement shall be subcontracted by the Firm without prior approval, in writing, from the City.
2. The Firm shall, prior to proceeding with the work, notify the City in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.
3. If any time during progress of the work, the City determines that any subcontractor is incompetent or undesirable, the City will notify the Firm who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this Agreement shall create any contractual relation between any subcontractor and the City .
4. The Firm will include in all contracts and subcontracts in excess of \$10,000 provisions addressing termination for cause and for convenience by the City including the manner by which it will be effected and the basis for settlement..
5. The Firm will include in all contracts and subcontracts provisions requiring compliance with the following, if applicable:
 - a. Prime construction contracts in excess of \$2,000, compliance with the Davis-Bacon Act, as amended (40 U.S.C.3141-3144, 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5);
 - b. Prime construction contracts in excess of \$2,000, compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3)
 - c. Contracts greater than \$10,000, the inclusion of the Equal Opportunity clause provided under 41 CFR 60-1.4(b) (Executive Order 11246);
 - d. Section 3 of the Housing and Urban Development Act of 1968; and
 - e. For procurement of recovered materials where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, compliance with 2 CFR 200.322 and section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requires procuring only items designated in guidelines of the EPA at 40 CFR part 247 that contain the highest percentage of recovered materials practicable.
6. The Firm will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party which is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 2 CFR Part 2424. A certification shall be provided and received from each proposed subcontractor under this contract and its principals.
7. The Firm will include in all negotiated contracts and subcontracts a provision to the effect that the City, TDA, the Texas Comptroller of Public Accounts, the Comptroller General of the United States, the U.S. Department of Housing and Urban Development (HUD), or any of their duly authorized

representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

8. The Firm will include in all contracts and subcontracts a requirement that the contractor maintain all relevant project records for three (3) years after the City has made final payment to the contractor and all other pending matters are closed.

STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Firm and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Firm represents that it has the required skills and capacity to perform work and services to be provided under this Agreement.
2. The Firm represents that services provided under this Agreement shall be performed within the limits prescribed by the City in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
3. Any deficiency in Firm's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from City and at the Firm's expense if the deficiency is due to Firm's negligence. The City shall notify the Firm in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the City under applicable state or federal law.
4. The Firm agrees to and shall hold harmless the City , its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Firm, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Firm doing the work herein contracted for or by or in consequence of any negligence in the performance of this Agreement, or by or on account of any omission in the performance of this Agreement.

PART III –

PAYMENT SCHEDULE

City shall reimburse the Firm for professional services provided upon completion of the following schedule to be determined:

PART IV

TERMS AND CONDITIONS

1. Termination of Agreement for Cause. If the Firm fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Firm violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Firm of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm pursuant to this Agreement shall, at the option of the City, be turned over to the City and become the property of the City. In the event of termination for cause, the Firm shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Firm shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Firm, and the City may set-off the damages it incurred as a result of the Firm's breach of the contract from any amounts it might otherwise owe the Firm.

2. Termination for Convenience of the City. The City may terminate this Agreement at any time by giving at least ten (10) days' notice in writing to the Firm. If this Agreement is terminated for convenience, the City will pay the Firm for actual services rendered up to the termination date, based on the charges for time, labor, expenses and other items specified in the Agreement.
3. Changes. The City may, from time to time, request changes in the services the Firm will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Firm's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TxCDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Amendment and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. All negotiation

meetings shall take place in Guadalupe County, Texas. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

5. Personnel.

- a. The Firm represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City .
- b. All of the services required hereunder will be performed by the Firm or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

6. Assignability. The Firm shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto; Provided, however, that claims for money by the Firm from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

7. Reports and Information. The Firm, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

8. Records and Audits. The Firm shall insure that the City maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Agreement. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Agreement. The Firm and the City shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.

9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the City .

10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Firm.

11. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Firm shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.

12. Conflicts of interest.

- a. Governing Body. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of TxCDBG award between TDA and the City / County, shall have any personal financial interest, direct or indirect, in the Firm or this Agreement; and the Firm shall take appropriate steps to assure compliance.
- b. Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the TxCDBG award between TDA and the City, shall have any personal financial interest, direct or indirect, in the Firm or this Agreement; and the Firm shall take appropriate steps to assure compliance.
- d. The Firm and Employees. The Firm warrants and represents that it has no conflict of interest associated with the TxCDBG award between TDA and the City or this Agreement. The Firm further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the TxCDBG award between TDA and the City or in any business, entity, organization or person that may benefit from the award. The Firm further agrees that it will not employ an individual with a conflict of interest as described herein.

13. Debarment and Suspension (Executive Orders 12549 and 12689)

The Firm certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Firm. The Firm understands that it must not make any award or permit any award (or contract) at any tier 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."

Federal Civil Rights Compliance.

14. Equal Opportunity Clause (applicable to contracts and subcontracts over \$10,000).

During the performance of this contract, the Firm agrees as follows:

- a. The Firm will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Firm will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Firm will, in all solicitations or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Firm will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The Firm will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Firm's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Firm will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Firm will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Firm's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Firm may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and

remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The Firm will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Firm will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Firm becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Firm may request the United States to enter into such litigation to protect the interests of the United States.

15. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

16. Section 109 of the Housing and Community Development Act of 1974. The Firm shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

17. Section 504 of the Rehabilitation Act of 1973, as amended. The Firm agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

18. Age Discrimination Act of 1975. The Firm shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

19. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) (if contract greater than or equal to \$100,000)

The Firm certifies that it will not and has not used Federal appropriated funds to pay any person 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 this contract. The Firm shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

Surveyor Rating Sheet

Grant Recipient _____
 Name of Respondent _____
 Evaluator's Name _____

TxCDBG Contract No. _____
 Date of Rating _____

Experience -- Rate the respondent for experience in the following areas:

Comments

	<u>Factor</u>	<u>Max.Pts.</u>	<u>Score</u>
1.	Has previously designed _____ type of projects	20	_____
2.	Has worked on federally funded construction projects	10	_____
3.	Has worked on projects that were located in this general region.	10	_____
4.	Staff experience and qualifications	10	_____
Subtotal, Experience		50	_____

Work Performance

	<u>Factor</u>	<u>Max.Pts.</u>	<u>Score</u>
1.	Past projects completed on schedule	5	_____
2.	Manages projects within budgetary constraints	5	_____
3.	Work product is of high quality	10	_____
4.	Effectiveness of the firm's quality assurance methods	5	_____
Subtotal, Performance		25	_____

Capacity to Perform

	<u>Factor</u>	<u>Max.Pts.</u>	<u>Score</u>
1.	Availability/proposed project schedule	10	_____
2.	Adequacy of Resources including equipment availability	5	_____
3.	Method to perform the work	5	_____
4.	Professional liability insurance is in force	5	_____
Subtotal, Capacity to Perform		25	_____

TOTAL SCORE

	<u>Factor</u>	<u>Max.Pts.</u>	<u>Score</u>
<input type="checkbox"/>	Experience	50	_____
<input type="checkbox"/>	Work Performance	25	_____
<input type="checkbox"/>	Capacity to Perform	25	_____
Total Score		100	_____

NOTE: Information necessary to assess the respondent on these criteria will be gathered by contacting past/current clients.

