

**CITY OF MERCEDES  
SOLICITATION, OFFER AND AWARD FORM**

**SOLICITATION INFORMATION  
REQUEST FOR QUALIFICATIONS (RFQ)**

**1. PROPOSAL NO.:** 17-002-09-06

**2. ISSUE DATE:** August 16, 2017

**3. FOR INFORMATION CONTACT:** (No collect calls)

**NAME:** Nereida Perez, Finance Director

**TELEPHONE:** (956) 565-3114 **FAX:** (956) 565-2209

**E-MAIL:** [nperez@cityofmercedes.com](mailto:nperez@cityofmercedes.com)

**4. BRIEF DESCRIPTION:**

**PROFESSIONAL ENGINEERING  
SERVICES**

**5. PRE-PROPOSAL CONFERENCE MEETING:**  
( *Highly Recommended* )  
\*\*\*\* There WILL not be a conference. \*\*\*\*

**6. ADVERTISING DATES:**

1<sup>st</sup> Week of Advertisement Date: \_\_08\_\_/\_16\_\_/\_17\_\_

2<sup>nd</sup> Week of Advertisement Date: \_08\_\_/\_23\_\_/\_17\_\_

**7. SUBMIT PROPOSAL TO:**

Mailing/Hand/Commercial Courier Delivery

**City of Mercedes  
Finance Department  
400 S. Ohio  
Mercedes, TX 78570**

**8. OFFER SUBMISSION DUE DATE AND TIME:**

**DATE:** September 6, 2017

**TIME:** 2:00 PM CST

**9. No Facsimiles or late arrivals will be accepted.** Any proposal received after offer submission due date and time will not be opened and will be returned. City of Mercedes Finance Department time stamp clock will be the governing time for acceptability of bids. Overnight mail must also be properly labeled on the outside of the express envelope or package in reference to RFQ.

**10. SUBMIT WITH OFFER:** Original offer and 3 photocopies including documents and attachments so indicated on Page 2 of this form.

**11.** Offers submitted in response to an RFB will be opened publicly by The City of Mercedes Finance Department, immediately after the submission due date and time. Offers submitted in response to an RFP will NOT be publicly opened.

**12. FIRM OFFER PERIOD:** Offers submitted shall remain firm for a period of 60 calendar days from the final due date for proposals.

**13. NOTE:** For Invitation for Bids, "offer" and "offeror" mean "bid" and "bidder".

**OFFER**

(To be completed by Offeror)

**14.** In compliance with the above, the undersigned agrees, if this offer is accepted within the period specified in Block 12, above, to furnish any or all items, or provide the service(s), upon which prices are negotiated and agreed for service, and to deliver the item(s) and or perform the service(s) at the designated location(s) within the time specified.

**15. FIRM NAME, ADDRESS:** (Type or Print)

**16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN THE OFFER:** (Type or Print)

**TELEPHONE:  
CELL PHONE:**

**E-MAIL:  
FAX:**

**17. OFFEROR SIGNATURE & DATE:**

**AWARD**

(To be completed by City of Mercedes)

**18. TOTAL AMOUNT OF AWARD:**

**19. CITY MANAGER SIGNATURE & DATE OF AWARD:**

Name:

Signature: \_\_\_\_\_

Date: \_\_\_/\_\_\_/\_\_\_

## SOLICITATION INDEX

**20. CONTENTS: (DOCUMENTS WITH A YES ARE TO BE SUBMITTED WITH OFFER)**

	NAME	FORM DESCRIPTION	SUBMIT WITH OFFER?
●	Cover Sheet	Solicitation, Offer and Award Form (Complete in its entirety to include Sign and Date)	YES
●	Instructions to Bidders	General Terms & Conditions	YES
		Firms Proposal (25 page evaluation criteria limit requirement)	YES
		Performance Bonds	NO
		Insurance Certificate	NO
●	Schedule of Subcontractor(s)/Subconsultant(s)	Attachment #1	YES
●	Non-Collusive Bidding Certificate	Vendor Acknowledgement Form	YES
●	Disclosure of Interested Parties Certificate	Executed Certificate	NO
●	CIQ Questionnaire	Conflict of Interest Questionnaire	YES
●			
●			

<b>21. ACKNOWLEDGMENT OF ADDENDUMS:</b>	ADDENDUMS #	DATE	ADDENDUMS #	DATE
Offeror acknowledges receipt of the following addendum(s) to the solicitation:  (Identify addendum number and date of each.)				

**CITY OF MERCEDES**  
**Instructions to Proposer – General Terms & Conditions**  
**RFQ Name/No.: PROFESSIONAL ENGINEERING SERVICES**

The City of Mercedes is soliciting statements of qualifications (“Qualifications”) from professional firms (“Respondents”) for selection of **Professional Engineering Services** in accordance with the terms, conditions, and requirements set forth in this Request for Qualifications. This Request for Qualifications (“RFQ”) provides Respondents with the information necessary to prepare and submit Qualifications Statements for consideration by the City.

**(1) Introduction and Purpose of Solicitation**

The City of Mercedes, Texas is seeking qualifications from experienced Engineering firms for Civil Engineering PS&E and Construction Management services to develop a pool of the highest qualified firms to provide services on a rotating basis. Work includes, but is not limited to the following: project design, construction management, and construction inspection on all City of Mercedes construction projects. The selected firms will be properly licensed in the State of Texas in accordance with the requirements of the Texas Board of Professional Engineers, as applicable.

In accordance with Section 2254 of the Government Code of the State of Texas, the City shall make the selection on the basis of demonstrated competence and qualifications to perform the services throughout the term of the contract. The services shall be provided for a fair and reasonable price and not to exceed any maximum established by law. Negotiations will be initiated with the provider judged most highly qualified to attempt to arrive at a fair and reasonable price. If a satisfactory contract cannot be negotiated with that provider, negotiations will be formally concluded, and an attempt will be made to negotiate a satisfactory contract with the provider judged the next highly qualified. If the negotiations with this provider are not successful, the process will be repeated until a satisfactory contract is entered into.

**(2) Type of Business**

(a) The Proposer represents as part of its offer that it operates as (Mark one with an "X"):

- |  |  |
|--|--|
| <input type="checkbox"/> an individual         | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a partnership         | <input type="checkbox"/> a corporation         |
| <input type="checkbox"/> another entity _____. |  |

**(3) Interest of Public Officials**

The offeror represents and warrants that no employee, official, or member of the Council (Executive Committee) of the City is or will be pecuniary interested in or benefited directly or indirectly as a result of this contract.

**(4) Covenant Against Gratuities**

The offeror represents as part of its offer that neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any director, officer or employee of the City with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performing of the contract.

**(5) Submission of Proposals**

(a) Proposals and modifications thereof shall be enclosed in sealed envelopes or sealed cartons and submitted to the Finance Director of the City of Mercedes at the address specified in the solicitation. The proposer shall show the hour and date specified in the solicitation for receipt of Proposals, the solicitation number, and the proposer's name, address, and telephone number on the face of the envelope or carton.

(b) Telegraphic Proposals will not be considered unless authorized by the solicitation; however, Proposals may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt of Proposals.

(c) Samples of items, when required, must be submitted within the time specified and, unless otherwise specified in the solicitation, at no expense to the City. If not destroyed by testing, samples will be returned at the proposer's request and expense, unless otherwise specified in the solicitation.

(d) Each copy of the proposal shall include the legal name of the proposer and a statement whether the proposer is a sole proprietorship, a corporation, or any other legal entity. A proposal from a corporation shall further give the state of incorporation and have the corporate seal affixed to it.

**(6) Acknowledgement by Signature**

Proposals must give full firm name and address of proposer, and be manually signed. Failure to do so will disqualify your proposal. **Person signing proposal must show title or CITY TO BIND HIS FIRM IN A CONTRACT. Firm name and authorized signature must appear on each page that calls for this information.**

**(7) Pre-Proposal Conference and Questions Concerning the Solicitation**

(a) A pre-proposal conference is scheduled for all interested parties to discuss the Request for Qualifications (RFQ) requirements, if so indicated on the Solicitation, Offer and Award Form. Details concerning the conference date, time and location are also provided.

(b) Questions and requests for clarification relating to this solicitation, shall be submitted in writing, to the contact person identified in the Solicitation, Offer and Award Form by mail, facsimile or commercial courier, at least three (3) working days in advance of the scheduled conference to allow sufficient time for responses to be considered and prepared by the City. Questions concerning the solicitation that are not addressed at the conference, if one is held, shall be submitted in writing no later than five (5) working days in advance of the offer submission due date and time. Questions received less than five (5) working days in advance of the offer submission due date and time will be responded only if the City determines that the question and its response would have a material and substantive impact on the solicitation.

**(8) Explanation to Proposers**

Any explanation desired by a proposer regarding the meaning or interpretation of the solicitation, drawings, specifications, etc., must be requested in writing from the City's authorized representative and with sufficient time allowed for a reply to reach Proposers before the submission of Proposals. Oral explanations or instructions given before the award of any contract, at any pre-proposal conferences or otherwise, will not be binding on the City. Any information given to a proposer concerning an interpretation of the solicitation will be furnished to all Proposers as an amendment to the solicitation, if such information is necessary to Proposers in submitting Proposals on the solicitation or if the lack of such information would be prejudicial to uninformed Proposers.

**(9) Acknowledgment of Addendums to Request for Qualifications**

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Proposers shall acknowledge receipt of any addendums to this solicitation: (1) by signing and returning the addendums; or (2) by identifying the addendums number and date in the space provided for this purpose on the RFQ form; or (3) by letter or telegram. The City must receive the acknowledgment by the time and at the place specified for receipt of Proposals.

**(10) Alter or Amend**

Proposals **cannot** be altered or amended after opening time. Alterations made before opening time must be initiated by proposer guaranteeing authenticity. No proposal may be withdrawn after opening time without acceptable reason in writing and only after approval by the City of Mercedes.

**(11) Non-collusion**

Respondents, by submitting a signed qualifications statement, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under Texas or United States law.

**(12) Non-discrimination**

Respondents, during the performance of this contract, will not discriminate against any employee or applicant for employment because of race, religion, sex, national origin or disability except where religion, sex, national origin or disability is a bona fide occupational qualification reasonably necessary to the normal operation of the firm.

**(13) Respondent Default**

City reserves the right, in case of submitter defaults, to procure the articles or services from other sources and hold the defaulting respondent responsible for any excess costs occasioned thereby.

**(14) Subcontracting**

The successful submitter may not subcontract the award without the written consent of the City of Mercedes.

**(15) Communication with Evaluation Team Members**

Firms submitting qualifications shall not discuss this RFQ with City of Mercedes employees not authorized to address questions or City Council Members. The only discussions allowed will be at the scheduled interview, if held, if your firm is selected for an interview. Failure to abide by this requirement may result in disqualification.

**(16) Respondents Are Not To Provide a Fee Proposal with This Submittal**

The fee will be negotiated in accordance with the Professional Services Procurement Act, (Tex. Govt. Code Ann. 2254.001), et seq.

**(17) Responsibilities of Firm**

Firms agree to and shall perform and complete the professional services and specific tasks required by City in connection with assigned Projects via work authorization on a rotating basis.

Firms shall perform its services consistent with the professional skill and care ordinarily provided by professional firms practicing in the same or similar locality under the same or similar circumstances. The firms shall perform its services as expeditiously as is consistent with such professional skill and care and to ensure the orderly progress of the Project.

Firms shall identify a representative authorized to act on behalf of and bind the firm with respect to the services.

Except with City's knowledge and consent, firms shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise firm's professional judgment with respect to the City.

Firms shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. The firm shall immediately notify the City of Mercedes of any suspension, revocation, or other detrimental action against any such license.

The firms shall maintain the insurance and endorsements required in this Section in full force and effect at all times during the term of this Agreement and any extensions thereto.

**(18) Contents of Proposal**

The following will be required for the evaluation process. The City will require **three (3) copies** of the proposals from all interested firms. Each proposal must address, but may not be limited to, the following elements:

1. Firm name, including the addresses of all firm offices identifying in which office the work will be performed. Names position, phone, fax numbers of contact person(s) and Qualifications of Team projected to be involved with the project development; years firm has been in business.
2. Include appropriate state registrations.
3. Include a portfolio of past work such as a list of relevant projects and clients (include contact person and phone numbers) that may be contacted for references and verification of background. A listing of at least three related projects to contain dates, facility size, construction cost, engineering fee, and the names, addresses and phone numbers of representatives of the Owners of these projects who can be contacted as references.
4. Names of principals in the firm
5. Names and disciplines of sub consultants (if any) proposed for the service.
6. Listing of all pending litigation against or involving the firm or its agents or employees with respect to any work performed.
7. Amount of professional liability insurance coverage carried by your firm.
8. Name and phone number of person to contact at the banking institution where your firm does business.
9. Responsiveness of Submissions: The City wants to receive competitive submissions, but will declare “non-responsive” submissions that fail to meet significant requirements outlined in the proposal requirements.

**(19) Method of Selection**

Proposals will be reviewed and evaluated by an evaluation team for the purpose of making a selection, request the submission of supplemental information, or require firms to make formal presentations before the selection committee for possible interviews. The purpose of the interviews will be to identify and recommend a pool of individuals or firms offering, the highest qualifications and experience. The firms who are deemed the most qualified shall be recommended for award. This is subject to the firms meeting the reasonable, responsive and responsible requirements and fair & reasonable pricing. The recommendation of the evaluation team will be forwarded to the City Council for consideration for award. The proposals will be evaluated on various criteria including but not limited to the following (percent listed at the end of each item lists the importance of the evaluation criteria):

**Evaluation Criteria**

The following criteria will generally be used to evaluate proposals:

Maximum Points

<u>Criteria</u>	
Experience Work	40
Performance	30
Capacity to Perform	20
Effectiveness	10
Total	100

- a) **Experience of Proposing firm (40 points):** Past experience with PS&E, public construction management, construction projects, state and/or federally funded public works construction projects and public transportation projects. Manner in which the consultants interact with the various groups involved with projects (public agencies (CITY and TxDOT), citizen groups, city council, and city staff).
- b) **Work Performance (30 points):** Performance regarding the success and capabilities of the firm’s/person’s past services will be assessed. Performance may include completing project activities on schedule,

completing work within budget, and quality of work similar to that proposed. Proposals should reflect the prospective firm's understanding of project design, construction management, and construction inspection and the approach for implementation and the successful completion of deliverables. The selected firm will be required to show proof of professional liability insurance coverage. Ability, capacity, skill and organization of the respondent to maximize the city's resources and minimize risk.

- c) **Capacity to Perform (20 points):** Capacity will be evaluated in the terms of numbers and type of staff to be assigned tasks, staff experience, and staff time availability. The prospective firm shall supply a list of staff personnel, including subcontractors, to be utilized in carrying out the contract, and resume on each individual expected to be assigned to the City of Mercedes. A Professional Engineer is required to participate as a lead manager on all city projects designed by the firm.
- d) **Effectiveness (10 points):** The character, integrity, reputation, judgment, experience, location and efficiency of the respondent. Firm should describe how it will maintain the best interest of the City at all times. How would the firm handle errors & omissions? Capability to complete projects without having major cost escalations or overruns.

Submissions of response to evaluation criteria should be limited to 25 pages, 8.5" by 11" single-sided paper with 12 point font. Three copies of the proposal should be provided to the City.

#### **(20) Evaluation and Basis for Award- Multiple Awards**

Multiple contract awards are anticipated under this solicitation. Multiple contract awards shall be made. Contract will be for a period of **three (3) years on an individual project rotating work authorization basis with two one year renewals.**

#### **(21) Contract Award**

The City reserves the right to negotiate with any and all engineering services firms that submit qualifications, per the Texas Professional Services Procurement Act, as amended, and the Office of Management and Budget Circular No. A-102. Responding engineering services firm will be notified if an oral presentation is necessary. A contract will be awarded to the most highly qualified firms. A written award (or acceptance of proposal) which is mailed, telegraphed, or otherwise furnished to the successful firms within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract without further action by either party. The engagement process is summarized as follows:

- a) Requests for qualifications (RFQs) will be published as legal notices in the city's website and local newspaper.
- b) The City will open submissions and a panel comprised of at least 3 staff members of the City of Mercedes will review submissions.
- c) Review Committee will score/rank qualifications according to the qualification rating sheet criteria and prepare a recommendation to the City Commission for final approval at the next regularly scheduled City Commission meeting after the rankings/shortlist presentations and negotiations for fair and reasonable pricing. If the negotiations with the highest scoring firms are not successful, the City Manger will conclude negotiations with those firms and contact the next highest scoring firms and begin negotiations. Following approval by City Commission contract will be executed and documents will be exchanged.
- f) The City of Mercedes will ensure that a qualified consultants are obtained through an equitable selection process and the prescribed work is property accomplished in a timely manner at a reasonable cost. The City of Mercedes reserves the right to reject any and all proposals, extend the RFQ deadline, and/or waive formalities in our selection.

**(22) Affirmative Action – Equal Opportunity**

Disadvantaged Business Enterprise - It is a policy to award a fair share of contracts to small business concerns and businesses owned or controlled by socially and economically disadvantaged individuals. Affirmative steps will be taken to assure that these businesses are utilized when possible as sources of suppliers, equipment, and professional services. The City of Mercedes is an Affirmative Action/Equal Opportunity Employer.

**(23) Proposed Cost of Service**

Compensation for services will be negotiated as a lump sum or percentage contract for all services contracted in accordance with accepted practice and applicable program guidelines. The amount of compensation will not be higher than the recommended practices and fees published by the applicable professional associations.

**(24) Independent Firm**

The Firm at all times shall be an independent firm. The Firm shall be fully responsible for all acts and omissions of its employees, subfirms, and their suppliers, and shall be specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with the contract requirements. There shall be no contractual relationship between any subfirm or supplier of the Firm and the City by virtue of this contract. No provision of this contract shall be for the benefit of any party other than the City and the Firm.

**(25) Confidential Data**

Each proposer may clearly mark each page of the proposal that contains trade secrets or other confidential commercial or financial information which the proposer believes should not be disclosed outside the City. Disclosure of requested information will be determined in accordance with the Texas Open Records Act.

**(26) Cancellation of Solicitation**

This solicitation may be cancelled by the City before or after receipt of Proposals (as applicable).

**(27) Removal of Contract Personnel**

- (a) The Firm and any subfirm acknowledge that any person assigned to work under this Contract must perform their duties so as to not unduly impair contract performance. By assigning a person to work under this Contract, the Firm agrees to be responsible for the behavior of that person during contract performance.
- (b) The Firm acknowledges that the City has the right to require the removal of any Firm or subfirm employee that the City Manager, Engineer, or Project Manager determine, at their sole discretion, to be negatively effecting performance of work under the contract. Examples of such behavior include: (1) conduct which poses a threat to the safety of anyone working under the contract; (2) conduct which is disruptive to contract performance; (3) careless work performance; and (4) other behavior determined by one of the three (3) project officials to be objectionable or unduly hindering contract performance.
- (c) Upon receipt of written notice from the City that a person's behavior is unduly impairing contract performance, the Firm agrees to remove that person from doing any further work on the contract, and to cause that person to be removed from the worksite. The Firm agrees that it is not entitled to any additional costs it may incur as a result of the removal of the person named by the Finance Director.

**(28) Compliance with Federal, State and Local**

Proposers must comply with all applicable federal, state and local laws, rules, regulations and ordinances and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.

**(29) Indemnification**



The proposer agrees to indemnify and save harmless the City, the Finance Director and any assistants from all suits and actions of every nature and descriptive brought against them or any of them, for or on account of the use of patented appliances, products or processes, and he/she shall pay all royalties and charges which are legal and equitable. Evidence of such payment or satisfaction shall be submitted upon request of the Finance Director, as a necessary requirement in connection with the final estimate for payment in which such patented appliance, products or processes are used.

**(30) BILLING AND PAYMENT INSTRUCTIONS:**

The City of Mercedes will execute payment by mail within thirty (30) working days after each percentage of work has been completed and found to meet the scope for **“Professional Engineering Services”** as indicated below.

(a) Invoices may be submitted once per month to and shall conform to policies or regulations adopted from time to time by the City. Invoices shall be legible and shall contain, as a minimum, the following information: (1) the contract and purchase order number (if any); (2) a complete itemization of all costs including quantities ordered and delivery order numbers (if any); (3) any discounts offered to the City under the terms of the contract; (4) evidence of the acceptance of the supplies or services by the City; (5) unique traceable invoice number(s); and (6) any other information necessary to demonstrate entitlement to payment under the terms of the contract. Failure to provide the above critical information may result in the rejection and return of the invoice for resubmission with complete data.

(b) Subject to the withholding provisions of the contract, payment shall be made within 30 days after the City's receipt of a properly prepared invoice.

**(31) Funding**

Funds for this procurement will be provided through local funding. The award of a proposal or contract hereunder will not be construed to create a debt of the City which is payable out of funds beyond the current designated funds for this fiscal year.

**(32) Submission of Schedule of Subfirm(s)/Subconsultant(s)**

Each offeror should include with proposal a completed Schedule of Subfirm(s)/Subconsultant(s) form provided as Attachment 1 to General Terms and Conditions with their offer. The contents of the form may be a factor used in determining an offeror's responsibility.

**(33) Duty to Inform**

If, at any time during the performance of the contract the Firm becomes aware of an actual or potential problem, fault, or defect in the project or any non-conformance with any contract document, federal, state or local law, rule, or regulation, the Firm shall give immediate written notice thereof to the Engineer. If the Firm is aware of any such problem, fault, defect or non-conformance, or should be aware through proper diligence of any such problem, fault, defect or non-conformance, and the Firm fails to give the required notice, the Firm shall assume full responsibility therefore and shall bear all costs attributed thereto.

**(34) Insurance Requirements for Supply/Services and/or Construction**

(a) Required Coverage. Awarded firm shall, at all times during the term of this contract and extended terms thereof, provide and maintain the following types of insurance protecting the interests of the City of Mercedes and the firm with limits of liability not less than those specified below.

Commercial General Liability insurance or its equivalent, **listing City of Mercedes as an additional insured**, providing limits of not less than \$1,000,000 for bodily injury and property damage per occurrence, consistent with potential exposure to City under the Texas Tort Claims Act. Coverage should include injury to or death of persons and property damage claims arising out of the services, construction, etc. provided with a general aggregate of \$500,000, and a products and completed operations aggregate of

\$1,000,000. Coverage should include: Damaged to rented premises at a minimum of \$100,000 per occurrence. There shall not be any policy exclusions or limitations for the following as well:

Contractual Liability covering Firm's obligations herein  
Personal Injury Advertising Liability  
Medical Payments  
Fire Damage Legal Liability  
Broad Form Property Damage  
Liability for Independent Firms

(b) Automobile liability insurance policy with combined single limit of at least Five Hundred Thousand Dollars (\$500,000.00) per occurrence, consistent with potential exposure to City under the Texas Tort Claims Act.

(c) Uninsured/Underinsured motorist coverage in an amount equal to the bodily injury limits set forth immediately above;

(d) A Five Hundred Thousand Dollar (\$500,000.00) Comprehensive General Liability insurance policy providing additional coverage to all underlying liabilities of City consistent with potential exposure of City under the Texas Tort Claims Act;

(e) Workers' Compensation and Employers' Liability- insurance is equivalent to State of Texas Workers' Compensation Statutory Limits, providing limits of not less than \$1,000,000 for each accident, each disease per employee \$1,000,000, and policy limit of no less than \$1,000,000. There shall not be any policy exclusions or limitations.

(f) Certificates of Insurance. Before commencing execution of this contract, and within 7 calendar days from date of award of contract, the Firm shall furnish Original proof of insurance via Certificates of Insurance satisfactory to the City of Mercedes at the following addresses,

City of Mercedes  
Nereida Perez, Finance Director  
400 S. Ohio  
Mercedes, TX 78570

evidencing that insurance as required by paragraph (a) above is in force, stating policy number dates of expiration and limits of liability thereunder. All copies of policies and Certificates of Insurance submitted to the City shall be in a form and content acceptable to the City.

(g) Approval of Forms and Companies. All coverage described in this contract shall be in a form and content satisfactory to the Finance Director. No party subject to the provisions of this contract shall violate or knowingly permit to be violated any of the provisions of the policies of insurance described herein. All insurance should be provided by insurance companies with a Best's rating of A- or better. Please include proof of such rating with your coverage documents.

(h) Additional Insured Endorsement. The policy or policies providing Commercial General Liability, and as otherwise required above, shall be endorsed to name City of Mercedes, their directors, officers, representatives, agents, and employees as Additional Insurers with respects to operations performed by or on behalf of the Firm in the performance of this contract via ISO endorsements CG 2037 or its equivalent. The policy shall also be endorsed to name other interests as directed by City of Mercedes.

(i) Notice of Cancellation or Material Changes. Policies and/or Certificates shall **specifically** provide that a thirty (30) day notice of cancellation, non-renewal, or material change be sent to the City.

(j) Multiple Policies. The limits of liability as required above may be provided by a single policy of insurance or a combination of primary, excess, or umbrella liability policies. But in no event shall the total limit of liability of any one occurrence or accident be less than the amount shown above.

(k) Deductibles. Companies issuing the insurance policies and the Firm shall have no recourse against the City for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the Firm.

(l) Subfirms. If any part of the work is sublet, the Firm shall require any and all subfirms performing work under this contract to carry General Liability and Products, and Construction Liability Insurance, with limits of liability that Firm shall deem appropriate and adequate to protect the interests of the City. In the event a subfirm is unable to furnish insurance in accordance to section (a) above, the Firm shall endorse the subfirm as an Additional Insured. Insurance certificates for subfirms shall be furnished to the City of Mercedes upon request.

(m) No Release. The carrying of the above-described coverage shall in no way be interpreted as relieving the Firm of any other responsibility or liability under this agreement, or any applicable law, statute, regulation, or order.

**(35) Municipality's Right to Carry Out the Work**

If the firm fails or refuses to carry out all or any part of the work in accordance with the contract requirements or within the contract schedule and fails or refuses to correct such deficiency within seven (7) days of receipt of written notice thereof from the City of Mercedes, the City, in its sole discretion and without waiving any other rights it may have, may elect to correct such deficiencies and charge the firm the cost of such corrections. Nothing in this clause shall relieve the firm of its obligation to perform the remainder of the work in accordance with the contract.

**(36) Governing Law**

The rights, obligations, and remedies of the parties shall be governed by the laws of the State of Texas. Whenever there is no applicable state statute or decisional precedent governing the interpretation of, or disputes arising under or related to, this contract, then federal common law, including the law developed by federal boards of contract appeals, the United States Claims Court (formerly the Court of Claims), and the Comptroller General of the United States, shall govern. Venue for any action shall lie exclusively in Hidalgo County, Texas. This is the complete agreement between the parties. If any provision of the contract is found to be invalid or unenforceable, the remaining provisions shall not be impaired.

**(37) Title to Submittals**

All information, drawings, or other submittals required to be furnished by the firm to the City under this contract shall become the property of the City.

**(38) Disclosure of Interested Parties**

Contractor is to comply with Government Code Section 2252.908 enacted by H.B. 1295, which prohibits a government entity or state agency from entering into certain contracts with a business entity unless the business entity submits a disclosure of interested parties. For more information, go to the Texas Ethics Commission web page at: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

**(39) Default**

(a) If the firm refuses or fails (i) to commence the work within the time required by this contract, (ii) to prosecute the work or any separable part with the diligence that will ensure its completion within the time specified in this contract, including any extension, (iii) to provide sufficient and properly skilled workmen or proper materials or equipment to complete the work in an acceptable manner and without delay, (iv) to promptly pay its subfirms, laborers, and materialmen, (v) to perform any of its other obligations under this contract, or (vi) to complete the work within the time specified in this contract ("events of default"), the City may, by written notice to the Firm, terminate the right to proceed with the work (or the separable part of the work). In this event, the City may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for

completing the work. The Firm and its sureties shall be liable for any damage to the City resulting from events of default, whether or not the Firm's right to proceed with the work is terminated. This liability includes any increased costs incurred by the City in completing the work.

(b) The Firm's right to proceed shall not be terminated because of delays nor the Firm charged with damages under this clause, if --

(1) the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Firm (examples of such causes include (i) acts of God or of the public enemy, (ii) acts of the City in either its public or contractual capacity, (iii) acts of another Firm in the performance of a contract with the City, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subfirms or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Firm and the subfirms or suppliers); and

(1) the Firm, within 10 days from the beginning of any delay (unless extended by the Finance Director), notifies the City Engineer or Finance Director in writing of the causes of delay. The Finance Director shall ascertain the facts and the extent of the delay. If, in the judgment of the City staff, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Finance Director shall be final and conclusive on the parties but subject to appeal.

(c) If, after termination of the firm's right to proceed, it is determined that the Firm was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the City.

(d) The rights and remedies of the City in this clause are in addition to any other rights and remedies provided by law or under this contract. Time is of the essence for all delivery, performance, submittal, and completion dates in this contract.

#### **(40) Termination for Convenience**

The Finance Director may, whenever the interests of the City so require, terminate this contract, in whole or in part, for the convenience of the City. The Finance Director shall give written notice of the termination to the Firm specifying the part of the contract terminated and when termination becomes effective.

(a) The Firm shall incur no further obligations in connection with the terminated work, and, on the date set in the notice of termination, the Firm will stop work to the extent specified. The Firm shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Firm shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Finance Director may direct the Firm to assign the Firm's right, title, and interest under terminated orders or subcontracts to the City. The Firm must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(b) The Finance Director may require the Firm to transfer title and deliver to the City in the manner and to the extent directed by the Finance Director: (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the City. The Firm shall, upon direction of the Finance Director, protect and preserve property in the possession of the Firm in which the City has an interest. If the Finance Director does not exercise this right, the Firm shall use its best efforts to sell such supplies and manufacturing materials.

(c) The City shall pay the Firm the following amounts:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of --

- (i) the cost of this work;
  - (ii) a sum, as profit on (i), above, determined by the Finance Director to be fair and reasonable; however, if it appears that the Firm would have sustained a loss on the entire contract had it been completed, the Finance Director shall allow no profit under this subparagraph
  - (iii) and shall reduce the settlement to reflect the indicated rate of loss.
- (2) The reasonable costs of settlement of the work terminated, including --
- (i) accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
  - (ii) the termination and settlement of subcontracts (excluding the amounts of such settlements); and
  - (iii) storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- (3) The total sum to be paid the Firm under this subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Firm reduced by the amount of payments otherwise made, the proceeds of any sales of construction, supplies, and construction materials under this subparagraph, and the contract price of work not terminated.

**(41) Termination for Default**

(a) The City may, subject to the provisions of paragraph (c) below, by written notice of default to the Firm, terminate the whole or any part of this contract in either one of the following circumstances:

(1) if the Firm fails to make delivery of the supplies or to perform the service within the time specified herein or any extension thereof; or

(2) if the Firm fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Finance Director may authorize in writing) after receipt of notice from the Finance Director specifying such failure.

(b) In the event the City terminates this contract in whole or in part as provided in paragraph (a) of this clause, the City may procure, upon such terms and in such manner as the Finance Director may deem appropriate, supplies or services similar to those so terminated, and the Firm shall be liable to the City for any excess costs for such similar supplies or services; provided, that the Firm shall continue the performance of this contract to the extent, if any, it has not been terminated under the provisions of this clause.

(c) Except with respect to defaults of subfirms, the Firm shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Firm. Such causes may include, but are not restricted to, the following: acts of God or of the public enemy, acts of the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; provided, however, in every case the failure to perform must be beyond the control and without the fault or negligence of the Firm. If the failure to perform is caused by the default of a subfirm and if such default arises out of causes beyond the control of both the Firm and subfirm and without the fault or negligence of either of them, the Firm shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subfirm were obtainable from other sources in sufficient time to permit the Firm to meet the required delivery schedule.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the City, in addition to any other rights provided in this clause, may require the Firm to transfer title and deliver to the City in the

manner and to the extent directed by the Finance Director (i) any completed supplies and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as the Firm has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Firm shall, upon direction of the Finance Director, protect and preserve property in possession of the Firm in which the City has an interest. Payment for completed supplies delivered to and accepted by the City shall be at the contract price. Payment for manufacturing materials delivered to and accepted by the City and for the protection and preservation of property shall be in an amount agreed upon by the Firm and Finance Director. Failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the Disputes Clause of this contract. The City may withhold from amounts otherwise due the Firm for such completed supplies or manufacturing materials such sum as the Finance Director determines to be necessary to protect the City against loss because of outstanding liens or claims of former lien holders.

(e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Firm was not in default or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be those provided in the Termination for the Convenience of the City Clause hereof. Failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the Disputes Clause of this contract.

(f) The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract. Time is of the essence for all delivery, performance, submittal, and completion dates in this contract.

(g) As used in paragraph (c) of this clause, the terms "subfirm" and "subfirms" mean subfirm(s) at any tier.

# **CITY OF MERCEDES**

## **Scope of Service**

**RFQ Name/No: PROFESSIONAL ENGINEERING SERVICES**

### **I. Services Required**

The qualified firm selected will perform PS&E, Construction Management and Inspection. It is expected that the qualified firm selected will have a sufficient level of resources and engineering expertise to carry out the scope of service.

The qualified firm should have a staff with significant experience in the environmental process, roadway design and a workload free from constraints to perform in a timely manner. Firms must be prepared to assure the City of Mercedes that key personnel indicated in their qualifications statement will maintain their role during the contract.

### **II. Administration**

1. Maintain communication and coordinate with the City of Mercedes, Federal & State Entities, and Construction Contractor(s) on a regular basis.
2. Perform accurate PS&E services and propose cost savings methodology.
3. Review, approve, or reject invoices for processing.
4. Have a thorough understanding of contract plans, specifications, estimates and contract special provisions.
5. Attend pre-bid conference, construction performance meetings and conduct pre-construction meetings.
6. Coordinate with the public and any affected property owners.
7. Provide review, feedback, or guidance on Change Orders as prepared by the contractor.
8. Make sure contractor contacts Dig-Safe.
9. Prepare Daily Reports, including quantities, locations of work, weather conditions, and weekly progress reports.
10. Maintain a photographic record of the progress of construction, annotating such photos to indicate their content and context including date. This photographic record must be available for reference by the Construction Manager, Design Engineer, State or Federal representatives, and Municipality representatives.
11. Receive materials certifications and verify compliance with state and federal regulations.
12. Report immediately any unusual occurrences and all accidents occurring within the project limits to the City Manager or City Representative. The consultant shall carry out its responsibilities in a manner that is consistent and cooperative with standard practice.
13. Calculate and verify the final contract quantities.
14. Review and submit to the City Manager any suggestions or requests made by the contractor to change or modify any requirements of the Plans or Contract Documents.

15. Receive materials certifications, computations and reference materials submitted by the Contractor. Maintain files on the project site of all items submitted by the contractor and of work done on behalf of the Municipality.
16. Prepare a Contractors progress payment estimate on a bi-weekly basis.
17. Issue a Certificate of Substantial Completion at the appropriate time.
18. Provide certification to the Municipality that projects were constructed as designed, subject to appropriate and necessary revisions during construction, in conformance with all project specifications and that all necessary contract provisions were fully complied with.

### **III. Construction Management**

The Engineer is to assist the City during the Construction phase, and to build the Project thereafter as a Construction Manager. The Construction Manager will hold and administer all subcontracts and shall be responsible for all project administration including but not limited to; scheduling the work, verifying and approval of all required shop drawings and submittals, monitor and ensure timely delivery of all required materials, enforcement of all OSHA safety regulations and approval of all material invoices and subcontractor pay requests. The Construction Manager will be responsible for managing the site and coordinating all construction activities.

The Construction Manager shall ensure that a competent inspector/chief inspector remain on-site continuously during construction activities and have authority to act on behalf of the Construction Manager. The Construction Manager should review the contractor's schedule and request updates no less than once a month. The contractor will submit a construction schedule and the construction manager will monitor the schedule to make sure that the project is on track and that testing is being done after applicable items of work. The schedule shall be updated and submitted to the Owner no less than once a month upon construction commencement. The Construction Manager shall report to the Owner all construction contingency allocations and shall update and submit to the Owner a log of contingency allocations no less than once a month.

Specific services anticipated of the CM include, but are not limited to the following:

#### **PRE-CONSTRUCTION PHASE SERVICES:**

- Attend meetings as necessary, provide written reports
- Perform quality assurance and constructability reviews of engineering documents
- Provide cost estimate and value management on change orders
- Other/list

#### **CONSTRUCTION PHASE SERVICES:**

- Attend meetings as necessary, provide written reports
- Provide cost control and value management on change orders
- Assure quality and completeness of the work with continued on-site and office support monitoring and inspections
- Maintain job safety measures
- Comply with all regulatory and agency requirements
- Monitor project schedule, provide weekly updates
- Perform all fiduciary and insurance responsibilities
- Conduct records retention and management

#### **POST CONSTRUCTION PHASE SERVICES:**

- Provide all closeout documents
- Coordinate final acceptance of project.

### **IV. Construction Inspection**

Firms will be required to meet or exceed the scope of service below, but may not be limited to:



1. Maintain a presence on the project during times when contractor activities are underway and be on-site at all times during construction activities of the project requiring certification to be able to certify, on completion of the project, that the project was built as designed.
2. Check that the contractor is in compliance with all construction contract requirements, Municipality permits and ordinances; property rights agreements; erosion and sediment control and stormwater management plans; state permits, regulations and statutes; and federal regulations and statutes; and exercise the engineer's authority as provided in the contract documents and report immediately any deviations to the City.
3. Inspect and approve material sources and waste, borrow and staging areas.
4. Track utility relocations and plot final facility locations on the final as-built plans (if any).
5. Erosion control monitoring in accordance with applicable permits.
6. Review and verify traffic control activities to include inspection of barricades and traffic control devices.
8. Check that completed work complies with the plans and specifications and is true to line and grade.
9. Organize an inspection of work completed at such time as the contractor may claim substantial completion, with a contractor's representative, Design Engineer, State, Federal & Local representatives, and issue a list of items to be corrected or completed.
10. The Consultant field personnel will be expected to wear personal protective equipment, including appropriate headgear, footwear and reflectorized vest when on the project site.
11. The inspector will be expected to provide and have on the project all necessary equipment, tools, and supplies needed to carry out the required duties.



**City Of Mercedes**  
**Vendor Acknowledgment Form - Non-Collusive Bidding Certification**  
**Bid Name/No.: “: PROFESSIONAL ENGINEERING SERVICES”/ 16-104-12-30**

I/We have read instructions to proposer and specifications. My/Our proposal conforms to all proposal scope of service, conditions, and instructions as outlined by *CITY OF MERCEDES*.

Signing the Acknowledgment Form confirms that our company will enter into a binding contract with CITY OF MERCEDES for item(s) awarded to our company. I/We have read instructions to proposer and specifications.

The undersigned Proposer, by signing and executing this proposal, certifies and represents to the CITY OF MERCEDES that Proposer has not been offered, conferred or agreed to confer any pecuniary benefit, as defined by §1.07(a)(6) of the Texas Penal Code, or any other thing of value as consideration for the receipt of information or any special treatment or advantage relating to this proposal; the Proposer also certifies and represents that Proposer has not offered, conferred or agreed to confer any pecuniary benefit or other things of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this bid; the Proposer certifies and represents that Proposer has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent of employee of the CITY OF MERCEDES concerning this proposal on the basis of any consideration not authorized by law; the Proposer also certifies and represents that Proposer has not received any information not available to other Proposers so as to give the undersigned a preferential advantage with respect to this proposal; the Proposer further certifies and represents that Proposer has not violated any state, federal or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that Proposer will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value to any officer, trustee, agent or member of the CITY OF MERCEDES in return for the person having exercised the person's official discretion, power or duty with respect to this proposal; the Proposer certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or member of CITY OF MERCEDES in connection with information regarding this proposal, the submission of this proposal, the award of this contract or the performance, delivery or sale pursuant to this proposal.

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**Note: This form, along with the Execution of Offer, must be filled in and submitted with the sealed proposal.**

# CONFLICT OF INTEREST QUESTIONNAIRE

# FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

## OFFICE USE ONLY

Date Received

**1** Name of person who has a business relationship with local governmental entity.

**2**  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

**3** Name of local government officer with whom filer has employment or business relationship.

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes       No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes       No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes       No

D. Describe each employment or business relationship with the local government officer named in this section.

**4**

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date