

Request for Qualifications



City of Killeen, Texas
Sealed statements will be
received for:

Professional Architectural and
Engineering Design and Management
Services for the Emergency Operation
Complex and Fire Station No. 4
RFQ 22-42

Sealed Statements will be received
until 3:00 p.m. on
October 13, 2022

Return Statements to:

City of Killeen
Attn: Purchasing Division
802 N. 2nd Street
Building E, 2nd Floor
Killeen, Texas 76541

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NOTICE TO QUALIFIED FIRMS
Professional Engineering & Architectural Design and
Management Services for the Emergency Operation
Complex and Fire Station No. 4
RFQ No. 22-42
CITY OF KILLEEN, TEXAS

The City of Killeen will receive statements of qualifications for ***Professional Architectural and Engineering (A&E) Design and Management Services for the Emergency Operation Complex (EOC) and Fire Station No. 4*** electronically through the City's Negometrix e-bidding site or addressed to the City of Killeen, Attn: Purchasing Division, 802 N 2nd Street, Bldg. E, 2nd Floor, Killeen, Texas 76541, until **October 13, 2022, at 3:00 p.m.** Submittals shall be plainly marked with the name and address of the Respondent and labeled "**RFQ 22-42, Professional A&E and Management Services for the EOC and Fire Station No. 4**". Submittals received after the closing time will be returned unopened.

The purpose of this request is to select and ultimately enter into a contract(s) with an Architectural and Engineering Design and Management Services firm to design and manage the construction of a new Emergency Operation Complex and Fire Station No. 4. Respondents shall provide qualifications as outlined in the RFQ.

Bid questions will be accepted via email by Lorianne Luciano at SolicitationQuestions@KilleenTexas.gov or via Negometrix e-bidding site, until 12:00 p.m. on October 6, 2022. Bid question emails shall have **BID NO. 22-42 QUESTIONS** in the subject line. There will be no exceptions. Questions will be answered in the form of an addendum and posted on the City's website. It is the bidders/proposer's responsibility to obtain and acknowledge all addendums.

Complete information regarding this solicitation may be obtained from the City of Killeen website (<http://www.killeentexas.gov/Bids.aspx>), Demand Star (<http://www.demandstar.com/>), ESBD (www.txsmartbuy.com/esbd) and Negometrix E-Bidding site (<https://app.negometrix.com>).

The City of Killeen reserves the right to reject any or all statements and waive any irregularities.

CITY OF KILLEEN, TEXAS

Lorianne Luciano, Director of Procurement and Contract Management

INTRODUCTION

General

The City of Killeen, Texas is seeking sealed Request for Qualifications (RFQ) from design teams of qualified architects, engineers, and consultants (licensed to practice in the State of Texas) to provide professional planning, design, engineering, and cost estimating for a new Emergency Operations Complex, Support Building(s) and Fire Station with associated parking, and infrastructure.

This project will be funded using federal American Rescue Plan Act (ARPA) grant monies. The Emergency Operation Complex and the training center will use ARPA funding. The Support Building(s), Fire Station and the Tower will be funded under revenue replacement, a provision of Government Services. ARPA funds provide a substantial infusion of resources to eligible state, local, territorial, and tribal governments to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery. The design and construction of an Emergency Operation Complex and Fire Station falls within the ARPA guidelines under category 1 – public health, subcategory 1.14 – other public health services and the remaining complex under category 6 revenue replacement subcategory 6.1 provision of government services.

Statements will be received by the Purchasing office on the date and time specified in this RFQ.

The City is aware of the time and effort your company expends in preparing and submitting statements to the City. Please advise the City of statement requirements causing your firm difficulty in responding to our RFQ. It is the desire of the City to make the process as workable and expedient as possible such that all responsible firms will be allowed to compete for the City's business.

Schedule

Sealed qualification packages will be received by the City of Killeen, Purchasing Division, 802 N. 2nd Street, Building E, 2nd Floor, Killeen, Texas 76541 until 3:00 p.m., October 13, 2022.

The estimated time frame for the submission of qualifications and consultant selection is:

Written Questions due	October 6, 2022 @ 12:00 p.m.
Qualifications packets due	October 13, 2022 @ 3:00 p.m.
<i>Potential</i> Interviews/Oral Presentations	October 17, 2022 @ TBD
City Council Approval	November 15, 2022
Service Start	TBD

Interviews/Oral presentations may be required of the selected teams for final selection. If required, interviews will consist of consulting representatives for all phases of the project.

Addenda

Any interpretations, corrections, or changes to this RFQ will be made by an addendum. All addenda issued will be posted on the City website at: <https://www.killeentexas.gov/Bids.aspx>. It shall be the responsibility of the respondent to keep track of all addenda issued for this RFQ. All addenda issued will become a part of the RFQ and the respondent shall submit them within their statement to acknowledge receipt.

Communication

Questions and inquiries about this RFQ should be directed via email to Lorianne Luciano at SolicitationQuestions@KilleenTexas.gov or via Negometrix E-Bidding site prior to **12:00 p.m. on October 6, 2022**. Please indicate “**RFQ 22-42 Questions**” in the subject line of your email. **There will be no exceptions.** The City shall not be responsible for any verbal communication between any employee of the City and any potential firm. Only written requirements and qualifications will be considered.

Reservations

The City reserves the right to accept or reject any or all statements of qualifications as a result of this RFQ, to negotiate with all qualified sources, or to cancel, in part or in its entirety, this RFQ if found in the best interest of the City. All statements become the property of the City. A respondent taking exception to the specifications, or offering substitutions, shall state these exceptions by an attachment as part of their statement. The absence of such a listing shall indicate the respondent has not taken exceptions and shall hold the respondent responsible to perform in strict accordance with the specifications in this RFQ if they are awarded a contract.

The City further reserves the right to investigate the qualifications of any firm under consideration, require confirmation of information furnished by a firm, and waive irregularities or deficiencies in an RFQ submittal.

The City shall not, under any circumstances, be bound by or liable for any obligations with respect to RFQ 22-42 Professional Architectural and Engineering Design and Cost Estimating Services for the Emergency Operations Complex and Fire Station No. 4 until such time a contract has been awarded and all necessary approvals obtained in form and substance satisfactory to the City have been executed and authorized, and then only to the extent of such agreements.

Reimbursements

There is no express or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing statements in response to this RFQ. The City will not reimburse responding firms for these expenses, nor will City pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

Receipt of Statements

The submitted statement must be received by the Purchasing Division prior to the time and date specified. The mere fact that the statement was dispatched will not be considered; the respondent must ensure the statement is delivered. All statements received after the deadline will be rejected upon a delivery attempt or returned to the firm unopened.

A statement may not be withdrawn or cancelled by the respondent without the permission of the City for a period of ninety (90) days following the date designated for the receipt of their statement, and the respondent agrees to this upon submittal of their statement. Statements cannot be altered or amended after the submission deadline. Any interlineations, alterations or erasures made before the opening of the statement(s) shall be initialed guaranteeing their authenticity.

The respondent shall sign and date each statement in the packet that is representative of their firm's offer. The person signing the statement must have the authority to bind their firm in a contract. Statements received which are not signed and dated in this manner, may be rejected.

Protest

Any respondent wishing to file a protest concerning alleged improprieties with this solicitation must submit the protest in written format to the Director of Procurement at luciano@killeentexas.gov within five (5) business days after the specified time of the RFQ closing. The formal written protest must identify the name of the respondent contesting the solicitation, the name of the RFQ, the RFQ number, and the specific grounds for the protest with all supporting documentation. A response to the protest will be prepared by the Purchasing Division within ten (10) business days of receipt of the protest. All determinations made by the City are final.

Disclosure

At the public closing time, there will be no disclosure of contents to competing firms, and all statements will be kept confidential during the negotiation process. After selection of a firm, all statements are subject to disclosure under the Texas Public Information Act unless the respondent clearly and prominently identifies a submittal item as proprietary and said item qualifies for this exception under the Act as determined by the Texas Attorney General. Any item(s) marked proprietary or that contain a trade secret shall be clearly marked in a separate section of the statement.

One or more of the respondents may be asked to appear and make presentations to the selection committee for the purpose of making a final evaluation and recommendation for contract award. However, the City may, in its sole discretion, award a contract without presentations, based solely on information supplied in the statement responses.

Negotiations

Negotiations may be conducted with responsible respondent(s) who submit statements that are reasonably qualified of being selected. All respondent(s) reasonably qualified of being selected based on criteria set forth in this RFQ may be given an opportunity to make a presentation and/or interview with the selection committee. Following any presentation and/or interviews, firms will be ranked in order of preference. Should negotiations with the highest ranked firm fail to yield a contract, or if the firm is unable to execute said contract, negotiations will be formally ended and then commence with the second highest ranked firm, etc. However, the City may in its sole discretion, award a contract without interviews, based solely on information supplied in the statement responses.

Termination for Non-Appropriation of Funds

The City shall not be obligated for the respondent's performance during any of the City's future fiscal years unless and until the City Council appropriates funds for future Contracts in the City's Budget for each such future fiscal year. In the event funds are not appropriated for any Contract, then the Contract shall terminate as of the last day of the last fiscal year for which funds were appropriated. The City shall notify the respondent in writing of any such non-allocation of funds as soon as possible.

EXPERIENCE AND QUALIFICATIONS

In seeking an A&E, the City is looking for a well-qualified professional services firm with significant and successful prior experience in the design and construction of fire stations and emergency operation center/complex that are comparable to the proposed project.

- 1) The A&E will work with the City staff and any other consultants during the schematic design phase to develop multiple conceptual designs, to further the selected concept during the design development phase, to develop their plans and specifications during the construction documents phase and to provide construction administration and inspection during the construction phase of the project.
- 2) The A&E will work to ensure the feasibility and constructability of the project design, and to assist in bringing the estimated construction cost of the project within the project budget through value engineering, the selection of building systems and materials, cost estimating, scheduling, and other means, without adversely affecting the capacity and quality of the project.
- 3) The A&E will include a Cost Estimating Consultant/Firm as part of their proposed project team who will be responsible for the following:
 - Conceptual & Detailed Cost Estimating: Provide multiple independent probable construction cost estimates during each identified design phase prior to bid: programming, schematic design, design development, and construction documents.
 - Life Cycle Cost Analysis: Assess the initial, operating, and maintenance costs the facility throughout its entire useful life to determine the total cost of ownership maximize project value.
 - Scheduling: Develop project schedules detailing construction activities to deliver the projects. The construction activities on the project schedule should list major design and construction activities and identify major project schedule drivers, risks, and opportunities to reduce construction time.

Statutory Requirements for a Professional Services Contract under Chapter 2254 – Professional and Consulting Services of the Texas Local Government Code and City Requirements:

- A. Requirements: The City is accepting qualifications for a professional consulting services contract, pursuant to Section 2254 et seq. of the Texas Local Government Code, in accordance with the terms, conditions, and requirements set forth in this RFQ. Firms submitting Statements of Qualifications shall be referred to as “Respondents”.
- B. Architects and Engineers: The Architect or Engineer member of the A/E firm will prepare construction documents for the project and will have full responsibility for complying with all legal requirements, including those of Chapter 1051, Subtitle B of the Texas Occupations Code (Regulation of Architecture and Related Practices) and Chapter 1001, Subtitle A of the Texas Occupations Code (Regulation of Engineering and Related Practices).

The successful respondent must have distinguishing experience and knowledge of, but not be limited to, the following;

- 1) Demonstrates capability, as a company, to perform the A&E and cost estimating services based upon successfully completed similar projects without legal or technical problems.
- 2) Capability to provide the resources, including financial, equipment and staffing, necessary to meet project requirements.

- 3) Past performance on similar projects with this or other local municipality on construction of publicly funded projects related to fire and emergency services.
- 4) Qualifications and experience of the team members proposed for the project for Respondent as evidenced by the resumes of the proposed personnel. Only those personnel who will be directly involved in this project shall be submitted with their role clearly indicated.
- 5) Quality of references from past clients of Respondent regarding their performance on design of fire stations and emergency operation centers of similar scope, size, and quality.

Contracts

It is the desire of the City of Killeen to enter into a contract with an Architectural and Engineering Design firm who can reliably perform the types of services and products listed in this RFQ either directly or through the use of sub-consultants.

The exact date for negotiation and award of the contract under this selection period is not yet determined. Preparation of the contract is the responsibility of the selected consultant; final approval of all contract's rests with the Killeen City Council following review and recommendation by staff. For each project, city staff and the selected consultant shall proceed to negotiate the scope of services and agreement at a fair and reasonable fee. If an agreement cannot be reached with the selected firm, the City reserves the right to terminate negotiations with that firm and begin negotiating with other qualified firms in order of selection, and so on, until an acceptable project scope and agreement are reached.

The City does not guarantee that a contract (or contracts) will be awarded as a result of this RFQ. In the event that a contract award is made, but the contract is not executed, the City does not guarantee the contract will be re-awarded.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

Statement of Qualification Requirements

Each statement will be limited to a maximum of 50 pages and must address, but is not limited to, the following elements:

Identification of the Respondent.

Company name, address, telephone number and web site address of the Respondent. Clearly indicate corporate name and the "doing business as" name and/or brand name if different. If corporate name or "doing business as" name has changed during the last 24 months, specify any previous "doing business as" names used during that period.

Full name, title, mailing address, telephone number and e-mail address of primary point of contact for the company who will be managing or coordinating the services with the City.

A detailed biography of the key staff member responsible for and directly leading the project.

Provide a minimum of five (5) references that includes a letter of reference from the listed client.

Provide a minimum of three (3) projects completed by the firm of similar scope and complexity awarded in the last 5 years.

DUNS number or EUID number (Entity Unique Identification Number)

Relevant experience of the firm to include descriptions of projects completed or underway in the last five years including the project sponsor and point-of-contact.

Proposed Cost Estimating Consultant/Firms will provide the following information:

- **Responsible, Realistic Proposed Schedule** (identify project critical dates and milestones)
- **Sample Conceptual Cost Estimate** (recent project, similar size & scope)
- **Sample Detailed Cost Estimate** (current/recent project, similar size & scope) Provide a proposed timeline for the project.

Primary sub-consultants who will be a part of the consultant team.

General Project concept and approach to include the benefits that each step has for the project.

Must have all codes, standards, and licensing required to meet architectural and engineering professional standards by the state of Texas.

Provide details and documentation for any pending or on-going legal proceedings (arbitration, compliant, or court action) filed by the firm for any project in the past three (3) years.

Acknowledge the receipt of any addendums to this RFQ (by addendum number).

Respondents are encouraged to submit statements of qualifications electronically, however, if submitted by mail or hand delivered, one (1) signed and initialed, where indicated, original copy in ink (not pencil) and one (1) electronic copy on a flash drive of the entire statement of qualification packet shall be submitted at the address specified in the Schedule section.

RFQ Submittals MUST give full firm name and address of respondent and have original signature; failure to do so will disqualify the firm/team. The individual signing the RFQ submittal must show title or AUTHORITY TO BIND HIS/HER FIRM IN A CONTRACT. Firm name and authorized signature must appear on each page that calls for this information. The legal status of the Respondent whether corporation, partnership, or individual, shall also be stated in the RFQ submittal. A corporation shall execute the RFQ submittal by its duly authorized officers in accordance with its corporate by-laws and shall also list the state in which it is incorporated. A partnership Respondent shall give full names and addresses of all partners; all partners shall execute the statement. Partnership and Respondent shall state in the statement the names and addresses of all persons with a vested interest therein. The place of residence of each Respondent, or the office address in the case of a firm or company, with county and state and telephone number, shall be given after the signature.

EVALUATION AND SELECTION

All statements received from qualified, responsible, and responsive Architectural and Engineering Design firms will be evaluated fully to ascertain which is the most qualified. In evaluating the RFQ submittals, the City is particularly interested in entities demonstrating competent, timely, functional, and cost-effective methods to accomplish the range of professional services described in this solicitation. The City expects the RFQ submittal to provide adequate information about the firm’s organizational structure and designated key personnel who would be involved in any potential project. In its RFQ submittal, the respondent must include project specific summaries clearly identifying past and proposed roles and responsibilities, and present strategies to deliver the best product for the City, with sufficient detail to evaluate the “most qualified and competent” firms.

Each RFQ submittal shall be as concise as possible. However, supporting information may be submitted as a separate document marked “Appendix.”

Proposals will be evaluated on a weighted percentage for each evaluation criterion as established below:

MATRIX

Previous relevant and successful experience	30 points
Staff experience and team qualifications	30 points
Responsible, realistic proposed timeline	10 points
Client references and reference letters	10 points
Firm’s capability to physically respond	10 points
Project Approach	10 points

The top evaluated firms will be selected for interviews and presentations to help the City gather additional information to decide in awarding a contract. Participation in an interview/presentation is not an assurance that any firm will be awarded a contract. The contract will be awarded based on the criteria outlined in this RFQ and interview/presentation, if applicable, and subject to the approval of the City Council.

The City may require additional clarification or information necessary to evaluate each qualifications package.

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**American Rescue Plan Act (ARPA)
Required Contract Clauses
2 C.F.R. § 200.326 and 2 C.F.R. Part 200**

All requirements of 2 CFR 200, the SLFRF final rule, and any subsequent documentation released by the US Treasury must be followed when receiving payment of federal funds. This includes but is not limited to the following provisions.

1. Remedies.

- a. Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A. All remedies are stipulated in the Purchase Order Terms and Conditions.
- b. Applicability: This requirement applies to all FEMA grant, cooperative agreement programs, and City contracts that are funded through federal awards and grants.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant, cooperative agreement programs, and City contracts that are funded through federal awards and grants. The Termination for Cause and Convenience is in the City's Purchase Order Terms and Conditions.

3. Equal Employment Opportunity.

- a. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶C.
- b. Key Definitions.
 - (1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person

for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

- (2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines "construction work" as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Applicability. This requirement applies and the clauses incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

c. .During the performance of this Contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor 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, 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 contractor 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.
- (2) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor 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. Contractor 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.
- (3) The Contractor will, in all solicitations or advertisements for employees

placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

- (4) The Contractor 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 contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor 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.
- (6) The Contractor 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.
- (7) In the event of the Contractor'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 contractor 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 as 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.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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 contractor 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 contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. ~~Davis Bacon Act and Copeland Anti Kickback Act.~~ (4. a-f is not required when using ARPA funds)

a. ~~As amended (40 U.S.C. 3141-3148). When required by Federal Program~~

~~legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.~~

- ~~b. In accordance with the statute, Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors are required to pay ‘wages not less than once a week.~~
- ~~c. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.~~
- ~~d. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to federal awarding agency.~~
- ~~e. Compliance with the Davis-Bacon Act
All transactions regarding this Purchase Order hereby incorporates the requirements of compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.~~

~~Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors are required to pay ‘wages not less than once a week.~~

- ~~f. Compliance with the Copeland "Anti-Kickback" Act:
All transactions regarding this Purchase Order hereby incorporates the requirements of compliance with the Copeland “Anti-Kickback” Act:~~

~~(1) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.~~

~~(2) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.~~

~~(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.~~

5. Contract Work Hours and Safety Standards Act.

Applicability: This requirement applies, and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. All Contractors awarded by the City of Killeen entity in excess of \$100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶E.
- b. Under 40 U.S.C. § 3702, each Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- c. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- d. In accordance with 29 C.F.R. § 5.5(b) the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act are hereby incorporated:

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any pay of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on

such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

6. Rights to Inventions Made Under a Contract or Agreement.

This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. If the Federal award and grants meet the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the City of Killeen or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under that "funding agreement," the City hereby incorporates the requirements of 37

C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by the federal awarding agency into the contract. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- b. The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

- 7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

- (2) The Contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government} will, in tum, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- (3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the federal awarding agency.

- b. Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

- (2) The contractor agrees to report each violation to the City of Killeen

and understands and agrees that the City of Killeen will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the awarding agency.

8. Debarment and Suspension.

Applicability: This requirement applies, and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants.

- a. (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment.

Applicability: This requirement applies, and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶J; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4.
- b. Each tier certifies to the tier above 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 any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal Award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above 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 any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*,

10. Procurement of Recovered Materials.

Applicability: This requirement applies, and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ K; 2 C.F.R. § 200.322; Chapter V, ¶7.
- b. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- c. (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA• designated items unless the product cannot be acquired-
 - (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - (ii) Meeting contract performance requirements; or
 - (iii) At a reasonable price.(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA designated items is available at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>

11. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

Applicability: This requirement applies, and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- (b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- (c) See Public Law 115–232, section 889 for additional information.
- (d) See also § 200.471.

12. Domestic Preferences for Procurements.

Applicability: This requirement applies, and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- (a) As appropriate and to the extent consistent with law, the non–Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
 - (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

13. Access to Records.

This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- (1) The Contractor agrees to provide the City of Killeen (insert name of state agency or local or Indian tribal government), (insert name of recipient), the federal awarding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the federal awarding agency or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

14. DRS Seal, Logo, and Flags.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. The Contractor shall not use the DRS seal(s), logos, crests, or reproductions of flags or likenesses of DRS agency officials without specific federal awarding agency preapproval.

15. Compliance with Federal Law, Regulations, and Executive Orders.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. This is an acknowledgement that FEMA financial assistance, CARES Funds, or other federal funds will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, executive orders, federal awarding agency policies, procedures, and directives.

16. No Obligation by Federal Government.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

17. Program Fraud and False or Fraudulent Statements or Related Acts.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

CERTIFICATION

The undersigned affirms that they are duly authorized to execute a contract, that this RFQ has not been prepared in collusion with any other firm, and that the contents of this RFQ have not been communicated to any other firm prior to the official opening of this RFQ.

Respondent hereby verifies that it does not boycott Israel and will not boycott Israel and will not engage in business with Iran, Sudan, or a foreign terrorist organization during the term of any contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Respondent shall comply with all standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

Respondent hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Discriminate against a firearm entity or a firearm trade association are defined in Texas Government Code section 2274.001 as (A) with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services; (ii) refrain from continuing an existing business relationship; (iii) terminate an existing business relationship; or (iv) otherwise express a prejudice against the entity or association; and (B) does not include the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories.

Signed By: _____ Title: _____

Typed Name: _____ Company Name: _____

Phone No.: _____ Fax No.: _____

Email: _____

Address: _____
P.O. Box or Street City State Zip

Other Address: _____
P.O. Box or Street City State Zip

Remit Address: _____
P.O. Box or Street City State Zip

Federal Tax ID No.: _____

Date: _____

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

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

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

OFFICE USE ONLY

Date Received

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

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

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes

No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at [http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm](http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm). For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

LETTER OF AGREEMENT

This is a Letter of Agreement (“Agreement”) between the **City of Killeen** (referred to herein as “City”) and _____ (referred to herein as “Contractor”), collectively the “Parties”.

In consideration of the premises and of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

Scope of Agreement. The purpose of this Agreement is to enlist the services of Contractor to:

_____ (the “Project”).

Term of Agreement. This Agreement shall commence on the ___ day of _____ 20___ and terminate ___ calendar days after commencement of work on the Project.

Consideration. Contractor agrees to provide the services stated above:

___ at the rate of \$ _____ per hour; or

___ for the lump sum payment not to exceed \$ _____.

Independent Contractor. Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

Applicable Laws: Contractor shall follow all applicable local, State, and Federal laws, regulations, and requirements for the abatement and disposal of lead, asbestos, and other routinely encountered hazardous substances. All requirements of 2 CFR 200 must be followed. The ARPA clauses included in the RFQ are hereby incorporated by reference for all purposes. If any unusual substances or extraordinary amounts of the aforementioned substances are encountered, the Contractor will contact the City to contact the State and the relevant agency with authority for regulation of the substance.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor’s profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

Worker’s Compensation	Statutory
Automobile Liability	\$500,000 Combined single Limit for each accident (Bodily injury and property damage).

General Liability \$1,000,000 each occurrence (Bodily injury and property damage).
Professional Liability \$1,000,000 general aggregate.

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

Subcontracts and Assignments. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

Indemnification. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

Termination. This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

Texas Law. This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

Severability. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

Survival. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

Non-waiver. Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

Contract Verification. Texas law provides that a governmental entity may not enter into certain contracts for goods and services with a company unless the company provides written verification regarding aspects of the company's business dealings.

- Texas Government Code, Chapter 2271 – the company must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. Boycott Israel is defined in Government Code Chapter 808.
- Texas Government Code, Chapter 2274 – the company must verify that it does not boycott energy companies and will not boycott energy companies during the term of the contract. Boycott energy company is defined in Government Code Chapter 809.

- Texas Government Code, Chapter 2274 – the company must verify that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Verification is not required from a sole source provider. Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.

Affected by the above statutes are contracts 1) with a company with ten (10) or more full-time employees, and 2) valued at \$100,000 or more to be paid wholly or partly from public funds. A contract with a sole proprietorship is not included.

Entire Agreement. This Agreement shall represent the entire agreement by and between the Parties and it may not be changed except by written amendment duly executed by all Parties.

SIGNED, ACCEPTED AND AGREED TO this ____ day of _____, 20____, by the undersigned Parties who acknowledge that they have read and understand this Agreement and that the Agreement is issued in accordance with local, State, and Federal laws, and the undersigned Parties hereby execute this legal document voluntarily and of their own free will.

City

Contractor

City Manager
City of Killeen

Printed: _____

Title: _____