City of Waco, Texas

Request for Qualifications
RFQ No. 2016-001 Lake Brazos Dam Engineering Services

Issue Date: Monday, December 14, 2015
Closing Date & Time: Thursday, January 07, 2016, at 2:00 PM CST
Opening Date & Time: Thursday, January 07, 2016, at 2:01 PM CST

RFQ Opening Location: Purchasing Services Office, 1415 N. 4th Street, Waco, Texas
For Information Contact: Mr. Jody Copp, Purchasing Services, 254-750-8062

Purchasing Services
Post Office Box 2570
Waco, Texas 76702-2570
Telephone 254-750-8060
Fax 254-750-8063
www.waco-texas.com
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Definitions for use with this RFQ are:
The following definitions apply to this RFQ and the transaction between the City and the selected submitter unless otherwise designated in the context. Terms, which are singular, may include multiple, where applicable and when in the best interests of the City:
“City” means and refers to the City of Waco, Texas, and/or its City Council.
“Company” or “Firm” means and refers to any submitter, whether such submitter be a corporation, company, sole proprietor, partnership, company, or any other entity legally defined or recognized under the laws of the State of Texas.
“RFQ” means and refers to this particular enumerated Request For Qualifications.
“Selected submittal” means and refers to the Statement of Qualifications submitted by the Selected Firm.
“Selected Firm” means the firm who is selected by the City and to whom the City Council/City Manager awards a contract for the services requested in this RFQ.
“SOQ” means a Statement of Qualifications submitted in response to this RFQ.
“Submitter” means a firm that submits a Statement of Qualifications in response to this RFQ.
I. General Information

The City of Waco owns and operates the Lake Brazos Dam and accompanying facilities.

The Lake Brazos Dam, a labyrinth weir dam, located across the banks of the Lake Brazos/Brazos River, just downstream of the Business 77/LaSalle Avenue Bridge - has a re-occurring problem with log jams. An engineered system is needed that will make tree/log jam removal and prevention possible.

The selection of the Selected Firm under this RFQ shall be in accordance with Chapter 2254 of the Texas Government Code, so price information should not be included with the SOQ submitted.

The SOQ must be received by Thursday, January 07, 2016 for a submitting firm to be considered. SOQs may be held for ninety (90) days after opening without taking action.

II. Scope of Work

A. Background

The Lake Brazos Dam was constructed in the late 1960s in order for the City to impound water; (water which had been appropriated to the City under its oldest water right). Over the years, several revisions were made to the dam to solve various maintenance problems. One solution was to modify the hydraulic gates to keep the water levels constant. After many years of maintenance issues, the dam was replaced with the existing labyrinth weir dam. The existing labyrinth weir dam was built on the foundation of the previous hydraulic driven gated dam.

Logs and debris float to the dam, and the narrow sections of the dam catch the trees that accumulate over time. The trees are then forced underwater by more incoming trees, which increases the difficulty of removing the trees as a whole or individually.

B. Requested Engineering Services

The City of Waco is requesting statements of qualifications from experienced firms interested in providing engineering services for current and future projects at the Lake Brazos Dam. The engineering contract will be for three years, with the possibility of two (2) one-year extensions—for a maximum length of five years. The current projects involve services to provide planning, design, preparation of plans, researching and obtaining all necessary permits, specifications and bid documents, bidding phase services, and construction phase services; future projects would involve the same, or fewer, or negotiated services.

The initial project (Work Order #1) is removal of the existing trees without causing any damage to the dam. The engineering consultant will develop the best initial tree and debris removal method, assist in the hiring of a contractor, oversee the work of the tree removal, and obtain any permits needed to perform the work in question.

The second project (Work Order #2) is for the design of an engineering solution that will prevent the log jam of trees and large debris on the upstream side of the dam, and that will possibly include a tree removal system. The engineering firm will plan a design construction sequence,
including an accurate set of construction documents and an estimation of construction costs for the proposed project. In addition, the engineer chosen will provide construction management and inspection duties during the construction of the design solution.

The engineering firm shall provide all contract documents, including all project specific portions of the contract documents, using the latest City of Waco format. Construction documents shall include bid documents, Special Provisions, detailed Technical Specifications, and construction plans. The engineering firm shall provide engineering support services during the construction bidding process.

Each future project will be approved by a Work Order. Each Work Order—including #1 and #2—may require Waco City Council approval. CITY shall compensate the engineering consultant for the Services on the basis as set forth in each separately issued Work Order.

C. **Proposed Contract Scope**

1. Provide engineering services at the Lake Brazos Dam
2. Work Orders, in general
   a) Construction Plans and Services, when applicable:
      (1) Prepare a complete and accurate set of construction plans for the project including general, civil electrical, mechanical, instrumental, and processing drawings.
      (2) Contact public utilities for service requirements as needed.
      (3) Provide an estimated time of construction for the project, as well as estimated cost of construction.
      (4) Provide recommendations for phasing in the project.
   b) Manage Construction Activities for the Approved Engineering Design, when applicable:
      *These services will begin at a pre-construction conference and end at the final acceptance of the project. However, the construction project will not start until funding is found by the City.*
      (1) Manage and inspect the construction of the design solution that will prevent and/or remove the trees and logs from the upstream side of the dam.
      (2) Once the tree removal system has been approved, and the project has received bids, provide construction management services to ensure the system is built to specifications.
   c) Finding Funding Sources, when applicable:
      (1) Research and assist in obtaining grant funding for the design and/or construction of the dam improvements.
      (2) Research should be for local, state, and federal grants.
      (3) Once the grants are located, and determined to be of use to this project, upon the Waco City Manager’s approval, the City will instruct the consultant to apply for said grant. No grant application will be submitted without City approval. The consultant will submit applications on behalf of the City of Waco, as well as, any additions, corrections, or supplemental information.
      (4) If a grant is offered, then upon the Waco City Council’s approval, the City will instruct the consultant to accept said grant.
(5) The consultant will then submit any progress or financial reports required as a part of accepting the grant.

3. Expected Work Order #1: Tree Removal
   a) Develop a means of removing the existing trees, logs, and debris from the upstream side of the dam.
   b) Hire any needed subcontractors to perform said work and manage the debris removal.
   c) Once removed, dispose of the trees and debris appropriately according to local, state, and federal regulations and guidelines.
   d) Recycling the debris as appropriate is acceptable.
   e) Said tree removal shall not damage the dam in any way.

4. Expected Work Order #2: System to remove future trees/debris
   a) Design a system to remove trees from the upstream side of the dam.
   b) Evaluate existing conditions around the dam to help determine possible permanent solutions to the tree accumulation problem.
   c) Based on the existing surroundings, provide various options to resolve the tree collection/removal problems.
   d) Finalize the best design solution based on the existing conditions, hydraulics, and aesthetics that will remove and/or prevent tree accumulation.

D. Specific Requirements
   1. Final Design Services:
      a) Final design shall include the preparation of the engineering construction drawings and specifications to be used to secure construction bids for the proposed project, including as needed, topographic surveys, easement and property acquisition services, environmental services, cost analysis, engineering estimates, geotechnical investigations, and construction sequencing.

   2. Drawings:
      a) All drawings shall be 24” x 36” Mylar per City of Waco Standards.

   3. Design Surveys:
      a) The firm shall provide design surveys including aerial photography to provide a level of accuracy appropriate to design the facilities per the RFQ. In addition, the firm will provide geotechnical investigations, and evaluation of subsurface conditions, which will influence bearing capacities, expansiveness, and constructability of the design solution chosen.

   4. Bidding Services:
      a) The engineering firm shall assist in coordinating and distributing documents for bidding, maintaining plan holders’ list, and collecting fees for plans and specifications. During the bidding process, the firm shall provide clarifications of the contract documents by responding to requests for information in accordance with established protocol, prepare addenda for distribution if necessary, and attend pre-bid meetings. The engineering firm will attend bid opening, review all bids for responsiveness, check references of the apparent lowest responsible bidder, and prepare a letter report with a complete analysis of the bids and recommendations of the contract award.

   5. Construction Services:
      a) During construction, the engineering firm shall manage the operation and inspect the contractor’s daily work.
III. Schedule

The proposed schedule of events is tentative and may be modified throughout the selection process at the discretion of the City of Waco.

- Issuance of the RFQ: Monday, December 14, 2015
- Pre-submittal Meeting: Tuesday, December 29, 2015
- Deadline for questions: Wednesday, December 30, 2015
- Statement of Qualifications due: Thursday, January 07, 2016
- Evaluation of the SOQs/Interviews: Thursday, January 14, 2016
- Establish ranking of submitters: Thursday, January 14, 2016
- Attempt to Negotiate contract: Monday, January 18, 2016

Tentatively, City staff will select the submitter to be recommended for award of the contract and submitters will be notified of the recommendation for contract award by Friday, January 22, 2016.

Tentatively, Council will consider awarding the contract on Tuesday, February 16, 2016.

IV. Contact Person

Questions concerning the RFQ must be submitted in writing on or before date shown in the schedule.

Submit to: Mr. Jody Copp, Buyer

Methods of submitting:
- U.S. Mail (not delivery): City of Waco
  P.O. Box 2570
  Waco, TX 76702
- Delivery Address: 1415 North 4th Street
  Waco, Texas 76707
- Fax: (254) 750-8063
- Email: jodyc@wacotx.gov (Preferred method)

Contact with someone other than Mr. Jody Copp (or his designated representative) at the City of Waco concerning this project may be grounds for removal from consideration.

RFQ Interpretation, modification, corrections, or changes will be made by addenda issued by the City of Waco. Addenda will be made available to all that are known to have received a copy of this RFQ. Submitters shall acknowledge receipt of all addenda per the instructions to be attached to an addendum.

V. Submittal Information

To be considered, one (1), unbound, clearly marked “Original” and 6 copies plus a PDF version on electronic media of the Statement of Qualifications must be received by the City’s Purchasing Services Department by date and time specified above, through either U.S. Mail or delivery service/personal delivery. Submission should be on 8 ½ by 11 paper, preferably in Times New Roman, Arial or Calibri font.
All SOQs shall be sent to the attention of the Purchasing Agent and marked on the outside as follows:

“RFQ 2016-001 Lake Brazos Dam Engineering Services”

The City will \textbf{NOT} accept a SOQ submitted by facsimile transmission (fax) or by electronic mail (email).

The City is not responsible for the non-receipt of submittals sent by mail or courier. A SOQ submitted, received or postmarked after the submission deadline will be returned unopened to the submitter.

<table>
<thead>
<tr>
<th>Via U.S. Mail (not delivery):</th>
<th>Via Delivery Services/Personal Delivery:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Waco Purchasing Services</td>
<td>City of Waco Purchasing Services</td>
</tr>
<tr>
<td>Attn: Mr. Jody Copp, Buyer</td>
<td>Attn: Mr. Jody Copp, Buyer</td>
</tr>
<tr>
<td>P.O. Box 2570</td>
<td>1415 North 4th Street</td>
</tr>
<tr>
<td>Waco, Texas 76702-2570</td>
<td>Waco, Texas 76707</td>
</tr>
</tbody>
</table>

\textbf{Note:} US Mail does NOT deliver to this street address

\textbf{Right to Accept or Reject.} The City reserves the right to accept or reject any or all submittals as a result of this RFQ, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the City. The RFQ does not commit the City to award a contract, issue a purchase order, or pay any costs incurred in the preparation of an SOQ in response to this RFQ.

\textbf{Reservations by City.} The City expressly reserves the right to:
- Waive any defect, irregularity, or informality in any submittal or RFQ procedure;
- Extend the RFQ closing time and date;
- Reissue this RFQ in a different form or context;
- Procure any item by other allowable means;
- Waive minor deviations from specifications, conditions, terms, or provisions of the RFQ, if it is determined that waiver of the minor deviations improves or enhances the City’s business interests under the RFQ;
- Extend any contract when most advantageous to the City, as set forth in this RFQ; AND/OR
- Retain all SOQs submitted and use any idea in SOQs regardless of whether a specific SOQ is selected.

\section*{VI. Statement of Qualifications}

A. \textbf{Submitter Review of RFQ.} Submitters are responsible for examining and being familiar with all terms, conditions, provisions, and instructions of the RFQ and their responses. Submission of a submittal indicates acceptance by the firm of the conditions contained in this RFQ. It is also the submitter’s sole responsibility to submit information related to the evaluation categories.

B. \textbf{No Price Information.} The selection of the Selected Firm under this RFQ shall be in accordance with Chapter 2254 of the Texas Government Code. \textbf{Do not include any price information within the SOQ.} SOQs containing any price information will be automatically disqualified.

C. \textbf{Submission Contents:} The SOQ must include the following information:
1. \textbf{Title Page:} Title page showing the RFQ subject, the RFQ number, the firm’s name; the name, address and telephone number of the contact person, and the date of the SOQ.
2. \textbf{Table of Contents}
3. **Transmittal Letter:** A signed letter of transmittal briefly stating the submitter’s understanding of the work to be done, the commitment to perform the work within the time period, and a statement as to why the firm believes it to be the best qualified to perform the engagement.

4. **Detailed SOQ:** The detailed SOQ should follow the order set out as follows:
   a) **License to Practice in the State of Texas:** Since engineering services will be required to be performed in the resulting contract under this RFQ, an affirmative statement should be included that the engineer performing the engineering services is properly registered to practice engineering in the state of Texas. If the submitter anticipates architectural services will be required to be performed in the resulting contract under this RFQ, an affirmative statement should be included that the architect performing the architectural services is properly registered to practice architecture in the state of Texas.
   b) **Firm Qualifications and Experience:** The submitter should state the size of the firm, the location of the office from which the work on this project is to be performed, the number and nature of the professional staff to be employed in this project on a full-time basis, and the number and nature of the staff to be so employed on a part-time basis.
   c) **Joint venture or consortium:** If the submitter is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal should be noted, if applicable.
   d) **Partner, Supervisory and Staff Qualifications and Experience:** Identify the principal supervisory and management staff, including partners, managers, other supervisors and specialists, who would be assigned to the project. Indicate whether each such person is registered or licensed to practice in Texas. Provide information on the experience of each person, including information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this project.
   e) **Consultants and Firm Specialists:** Consultants and firm specialists identified in the SOQ can only be changed with the express prior written permission of the City of Waco, which retains the right to approve or reject replacements. Partners, managers, other supervisory staff and specialists may be changed if those personnel leave the firm, are promoted, or are assigned to another office. Other project personnel may be changed at the discretion of the submitter provided that replacements have substantially the same or better qualifications or experience.
   f) **Organizational Chart:** Attach a one page copy of your business organizational chart for the portion of your business that will be involved with this project, complete with names and titles. On the chart mark the persons who will be involved on this project.
   g) **Business Operation:** If the submitter has operated under any other names within the last ten (10) years, provide those names.
   h) **Ownership changes:** If submitter anticipates any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months, provide a description of what is anticipated and how that could impact work on this project if awarded the contract.

5. **Additional background information on no more than 15 pages**
   a) **Similar Projects with Other Entities:** For the firm's office that will be assigned responsibility for the project, list the most significant projects (maximum - 5) performed in the last five years that are similar to the project described in this request for qualifications. These projects should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, the original estimate and final
cost, whether or not the design was completed within the time constraints, and the name and telephone number of the principal client contact.

b) **Project Approach / Work Plan:** The SOQ should set forth a work plan, including an explanation of the project methodology to be followed, to perform the services and to provide the deliverables required to complete the Corridor Study as described in Section II of this RFQ. In addition, Section II of this RFQ states items that should or may be addressed in the SOQ and these items should or may be included in the work plan. The work plan should include at a minimum: itemized tasks, resource requirements, specialized skills needed, special considerations, and possible challenges in completing the project. You should also identify the extent to which City of Waco staff will be involved in the project.

c) **Identification of Anticipated Potential Project Problems:** The submittal should identify and describe any anticipated or potential project problems, the firm's approach to resolving these problems, and any special assistance that will be requested from the City of Waco.

d) **Project Schedule:** A project schedule should be a part of the SOQ. This schedule should, at a minimum, indicate the amount of time in weeks that each phase and/or activity identified in the Scope of Work will take to complete. This information should be presented so the review committee can see how activities relate to each other as far as timing goes and also how long the project is expected to take from contract execution to completion of all services to be performed in accordance with the contract.

e) **References:** Each response should provide the City at least five (5) references for the firm (and any consultants) that the City may contact to discuss performance on other similar work. At least one of these references must be someone that the firm worked with within the last 24 months. For each reference provide: project name and location; description of work; contract value of work performed by the firm or consultant and project value; name, address, and telephone number of project owner/representative who oversaw project performance; dates (month/year) contract was issued and actually completed; and contract completion terms.

D. **Modification or Withdrawal of SOQ:** SOQs cannot be altered or amended after the deadline to submit the SOQ passes. SOQs may be modified prior to the deadline only by providing a written notice (including by fax or email) to the purchasing contact person at the address or telephone number shown herein. An SOQ may also be withdrawn by providing the same notice in person by a submitter or the submitter’s authorized agent, provided the agent’s identity is made known and the agent signs a receipt reflecting the SOQ is being withdrawn. **Once the SOQ is withdrawn, the submitter will not be allowed to resubmit another SOQ.** This provision does not change the common law right of a submitter to withdraw a submittal due to a material mistake in the SOQ.

E. **Authorized Signature:** A SOQ must be manually signed by a person having authority to contractually bind the submitter. Any erasures or other changes must be initialed by the person authorized to sign the SOQ or others who are able to show evidence of authority to execute or sign on behalf of the submitter.

F. **Agreement; Exceptions.**
   1. Submission of an SOQ indicates the submitter’s acceptance of the evaluation process set forth below and the recognition that subjective judgments must be made by the City during the evaluation process.
   2. Submission of an SOQ indicates the submitter agrees to the terms, conditions, and other provisions contained in the RFQ, unless the submitter clearly and specifically presents in its submittal any exceptions to the terms, conditions, and other provisions contained in the
RFQ. Any exceptions must be clearly stated and must identify the terms, conditions, or other provisions that are the subject of the exception.

3. Exceptions presented in an SOQ will not to be considered incorporated into the contract between the City and the selected submitter unless and until the City agrees to accept such exceptions in writing.

4. The selected firm must acknowledge and agree that the contract resulting from this RFQ includes the terms, conditions, and other provisions contained in the RFQ, the submittal selected which is acceptable to the City and is not in conflict or contravention of the RFQ (including any exceptions accepted by the City), and any other documents mutually agreed upon by the City and the selected firm.

5. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFQ or the resulting contract.

6. The Selected Firm shall be required to execute a contract in the form set forth in Appendix D (with the amount of the fee and negotiated scope of services to be added). The City of Waco reserves the right to modify the contract terms from those shown in that Appendix if deemed to be in the best interest of the City. **Firms should review the sample contract for insurance amounts, indemnification provisions, and other terms and conditions. If there are terms or provisions in the sample contract that the firm objects to, that objection to an identified term or condition should be stated in its SOQ submission.**

### VII. Evaluation of Submittals & Award of Contract

**A. General Procedure:** The submitted SOQs will be initially reviewed and evaluated by a Project Review Committee. Each SOQ should be submitted as completely and accurately as possible. The City reserves the right to request additional information or clarifications, oral discussions, or presentations in support of the submitted SOQ. The City also reserves the right to allow corrections of errors or omissions.

**B. Evaluation Criteria:** Firms meeting the mandatory criteria below will have their SOQs evaluated for technical qualifications. A point formula will be used during the review and evaluation process by the Project Review Committee to score SOQs. The following represent the principal selection criteria.

1. **Mandatory Elements:**
   
   a) The firm and/or its subcontractors are licensed to practice engineering in the State of Texas and licensed to practice architecture (if applicable) in the State of Texas.
   
   b) The firm has no conflict of interest with regard to any other work performed by the firm for the City of Waco.
   
   c) The firm adhered to the instructions in this RFQ on preparing and submitting the SOQ. Since attendance at the pre-submittal meeting is not required, failure to have representative at such meeting will not have any impact regarding the evaluation of the SOQ.

2. **Technical Quality: (Maximum Points - 100)**
   
   a) Expertise and Experience (Maximum Points - 45)
      
      (1) The firm's past experience and performance on comparable projects.

      (2) The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation. Percent of time that will be spent on this project by key personnel (on a monthly basis).
b) Project Approach (Maximum Points - 45) - Adequacy of project methodology.
   (1) Quality of the proposed work plan, including method and staff resources
       planned.
   (2) Identification of anticipated potential project problems
   (3) Project schedule

c) Conformance with RFQ requirements (Maximum Points –10)
   (1) This includes, but is not limited to, whether forms listed in Appendix A
       were executed and returned as requested.

C. Final Selection
1. The scoring of the SOQs by the Project Review Committee will be presented to the City
   Manager or Executive staff, who will determine whether to schedule oral interviews
   with the top rated firms.
2. Based on all information reviewed and oral interviews (if conducted), the City Manager
   or Executive staff shall establish the final ranking of the firms.
3. The City shall then seek to negotiate a contract with the firm ranked first. If an
   agreement cannot be reached, the City Manager or Executive staff shall be notified.
   Efforts to negotiate a contract will then proceed with the firm ranked second. This
   process will be followed until a satisfactory contract can be negotiated or a decision is
   made to not execute a contract based on the RFQ.
4. The final contract must be awarded and approved by the Waco City Council if the
   negotiated fee will exceed $50,000.00. If the contract is for less than that amount,
   depending on the amount of the negotiated fee, the contract may be executed by the
   City Manager, an Assistant City Manager, department head or director.

D. After award of contract, the firm’s principal contact with the City of Waco will be Lisa Tyer,
   Director, Waco Utilities or a designated representative, who will coordinate the assistance to be
   provided by the City of Waco to the firm.

VIII. Appendices

A. Forms to be completed and returned
   1. Business Identification Form
   2. Conflict of Interest Questionnaire (CIQ form)
   3. Disclosure of Relationships with City Council/Officers
   4. Litigation disclosure
   5. Minority/Women Owned Business
   6. Certification Regarding Debarment
   7. Non-collusion affidavit
   8. Resident Certification
   9. Texas Public Information Act

B. Protest Procedure
C. Insurance Requirements
D. Sample Contract
Appendix A

Forms to be Completed and Returned

Business Identification Form
Conflict of Interest Questionnaire (CIQ form)
Disclosure of Relationships with City Council/Officers
Litigation disclosure
Minority/Women Owned Business
Certification Regarding Debarment
Non-collusion affidavit
Resident Certification
Texas Public Information Act
Business Entity Identification

To identify the appropriate person to execute documents, please fill in this form:

Full Legal Name of Business Entity: ____________________________________________

Doing Business As (assumed name): ____________________________________________

Main Contact Person: ________________________________________________________

Registered Office Address: __________________________________________________

Mailing Address: ____________________________________________________________

Business Phone #: ______________________ Fax #: __________________________

Email Address: _____________________________________________________________

DUNS Number: _____________________________________________________________

Check the appropriate box to designate the type of business entity & complete the information below.

Is entity: ☐Sole Proprietorship ☐Corporation ☐Professional Corporation

☐General Partnership ☐Limited Partnership ☐Limited Liability Partnership

☐Limited Liability Company ☐Professional Limited Liability Company

☐Other ___________________________________________________________________

Date Business Started: _________________ State Where Started: _________________

Depending on the type of business entity, the business will have owners, corporate officers, corporate directors, partners, managers, members, etc. Complete the information below.

To provide information on more than one person or entity for boxes 1 to 5, please use back of page, blank page, or another copy of this form.

<table>
<thead>
<tr>
<th></th>
<th>Name of Primary Officer, Partner, Owner, Manager, Member, Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Position or title with business entity ____________________________</td>
</tr>
<tr>
<td>3</td>
<td>Address (if different from above) ________________________________</td>
</tr>
<tr>
<td>4</td>
<td>Who is authorized to execute contracts and other documents? ______</td>
</tr>
<tr>
<td>5</td>
<td>What is the title or position of the person listed in #4? __________</td>
</tr>
</tbody>
</table>

6 Please provide a document (resolution, bylaw, agreement, etc.) that states the person identified in #4 has authority to execute contracts or execute affidavit.

In signing this form, I acknowledge that I have read the above and state that the information contained therein is true and correct.

Signature: ___________________________ Date: ____________________________

Print Name: ___________________________ Print Title: ______________________

Form 06/16/2015
DOCUMENT ESTABLISHING AUTHORITY
TO EXECUTE CONTRACT

When an instrument is signed on behalf of a business entity, documentation must be submitted that states the person signing on behalf of the business entity has the authority to do so. That documentation may be in the form of a resolution approved by a corporate board of directors, charter provisions, by-laws, partnership agreement, etc.

If a business entity has a document authorizing one or more individuals to enter into contracts or execute any instrument in the name of the business entity that it may deem necessary for carrying on the business of the entity, a certified copy of that document may be submitted.

This certification form is presented below for your convenience.

CERTIFICATION REGARDING ATTACHED DOCUMENT

I, the undersigned person, as the {title} ___________________________ of 
{business entity} ____________________________________________, certify that the attached document authorizes [name of person] ___________________________ to execute contracts and other documents on behalf of said business entity and said document has not been revoked, altered, or amended and is still in full force and effect.

SIGNED this _____ day of ____________________________, 20_____ 

_________________________________________
(Signature)

_________________________________________
Print Name

Attach document to this form

Business Entity Identification  Complete and Return with Bid/Proposal/Qualifications
RESOLUTION FOR CORPORATION

BE IT RESOLVED by the Board of Directors of _____________________________ that
(Name of Corporation)
_________________________________________ is hereby authorized to execute a contract
(Name)
with the City of Waco to complete/construct______________________________________________
(Name of Project, Project No.)
________________________________________, Secretary, is authorized to attest the
signature binding the corporation.

Corporate Name
(Corporate Seal) By: ________________________________
Title: ________________________________

ATTEST:

______________________________
Secretary of Corporation

CERTIFICATION

I, ________________________________, certify that the above resolution
(Secretary of Corporation)
was adopted by the Board of Directors of ________________________________
(Corporation)
at a meeting on the _______ day of _______________________, 20__.

______________________________
(Signature of Secretary)

______________________________
(Print Name of Secretary)
If business entity has no document to provide to declare who has authority to execute a contract on behalf of a business entity, this affidavit may be completed.

AFFIDAVIT OF AUTHORITY TO SIGN FOR COMPANY, CORPORATION, OR PARTNERSHIP

Name of Business Entity: ___________________________________________________

Which is  □ Corporation  □ Professional Corporation
□ General Partnership □ Limited Partnership □ Limited Liability Partnership
□ Limited Liability Company □ Professional Limited Liability Company

On behalf of the above named business entity, I, the undersigned, certify and affirm that the following named person has authority to execute contracts and other documents on behalf of said business entity:

Name:  ____________________________________________________________
Title:  _____________________________________________________________

I declare under penalty of perjury that the above is true and correct.

______________________________
Signature

______________________________
Print Name

______________________________
Print Title

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of ________________ , A.D., 20____.

______________________________
Notary Public In and For the State of Texas

My Commission Expires:

______________________________

INSTRUCTIONS FOR
CONFLICTS OF INTEREST QUESTIONNAIRE
[Form CIQ]

Chapter 176 of the Texas Local Government Code requires vendors who wish to conduct business or be considered for business with a city to file a “conflict of interest questionnaire.” The Texas Ethics Commission (TEC) created the conflict of interest questionnaire (Form CIQ).

Who must complete and filed CIQ form?
Every vendor doing business with the City or seeking to do business with the City must complete Box 1 and sign and date in Box 4. Whether or not a conflict exists determines the other information to include on the form.

Who is a vendor?
The term “vendor” includes a partnership, corporation or other legal entities, including those performing professional services. Partnerships or corporations act through individuals, but it is the partnership or corporation that is doing business with or seeking to do business with the City. If the vendor seeking to do business with the City is a sole proprietorship, then just the name of the person who is the vendor is needed.

What triggers the requirement to file the Form CIQ?
When a vendor (or an agent of the vendor) begins (1) contract discussions or negotiations with the city or (2) submits an application, quote, response to request for proposals or bids, or anything else that could result in an agreement (contract or purchase order) with the City, Form CIQ must be completed. Whether the vendor initiates the discussion or the City initiates the discussions, Form CIQ must be completed. The monetary amount or value of the contract/purchase does not matter. The contract or purchase may involve the sale or purchase of property, goods, or services with the City of Waco.

When does a conflict requiring disclosure exist? What has to be revealed?
- A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with the City of Waco and the vendor:
  (1) has an employment or other business relationship with an officer of the City of Waco, or a family member of an officer, that results in taxable income exceeding $2,500 during the 12 month period preceding the date a contract/purchase is executed or a contract/purchase is being considered; or
  (2) has given an officer of the City of Waco, or a family member of an officer, one or more gifts with the aggregate value of more than $100 in the 12 month period preceding the date a contract/purchase is executed or a contract/purchase is being considered
  (3) has a family relationship with an officer of the City of Waco.

What family relationships create a conflict?
A “family member” is a person related to another person within the first degree by consanguinity (blood) or affinity (marriage), as described by Subchapter B, Chapter 573, Texas Government Code. The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.
“Family relationship” means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Texas Government Code.
Who are officers of the City of Waco?
Officers are the members of the Waco City Council, the City Manager, and any agent or employee who exercises discretion in the planning, recommending, selecting, or contracting with a vendor. An agent may include engineers and architects, as well as others, who assist the City in making a decision on some contract or purchase.

When must a vendor file the conflict of interest questionnaire?
No later than seven days after the date the vendor: (a) begins contract discussions or negotiations with the city, or (b) submits an application or response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with a city, or (c) becomes aware of an employment or other business relationship with an officer or family member of the officer that the vendor (i) has made one or more gifts of more than $100 or (ii) has a family relationship with.

How do I go about filling out the Conflict of Interest Questionnaire form?
Section 1: Fill in the full name of the person or company who is trying to do business with the City. If the “person” is a corporation, partnership, etc., then it is the name of that corporation, partnership, etc., that is required on Form CIQ. If a sole proprietorship, then just the name of the individual is needed. If the “person” is an individual acting as an agent for some other person or a company, then it is the agent’s name. Any time an agent is involved, two FORM CIQs must be completed and submitted: one for the agent, and one for the person or company that the agent acted for. The agent’s FORM CIQ must note the vendor that the agent acted for.

Section 2: Check box if the form is an update to a form previously completed. Updates are required by the 7th business day after an event that makes a statement in a previously filed questionnaire incomplete or inaccurate. Updates are also required by September 1 of each year in which the person submits a proposal, bid or response to the City of Waco or begins contract discussions or negotiations with the City.

Section 3: Complete by listing the name of the City of Waco officer with whom there is an affiliation to or business relationship and check the “Yes” or “No” box in Section 3 A, B, or C. If there is more than one City officer with whom there is an affiliation or business relationship, a separate form should be completed for each officer.

3.A: State whether the officer named on the form receives or is likely to receive taxable income, other than investment income, from the vendor filing the questionnaire.

3.B: State whether the vendor receives or is likely to receive taxable income, other than investment income, from or at the direction of the officer named on the form AND the taxable income is not received from the City.

3.C: State whether the filer is employed by a corporation or other business entity with which the City officer serves as an officer or director or holds an ownership interest of 1% or more.

3.D: Describe each employment or business relationship with the local government officer named on the form.

Section 4. Person completing form must date and sign the form. If the form is being completed for a corporation, partnerships, etc., the person signing should be someone who is authorized to act on behalf of the corporation, partnership, etc.

A signature is required in box #4 regardless of any other entry on the form.
A copy of Chapter 176 of the Texas Local Government Code can be found at:
http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.176.htm
CONFLICT OF INTEREST QUESTIONNAIRE
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.

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.

   Insert name of vendor seeking to do business with the City of Waco

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 in this section is being disclosed.

   Insert name of officer with whom there is business, employment or family relationship. If no conflict, insert N/A.

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor 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 vendor?

   Yes  No

   Complete A-C if a conflict exist

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 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 interest of one percent or more?

   Yes  No

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

   Identify and describe the relationship, if applicable

4

Signature required -- so sign and date, even if no conflict

_________________________________________________________  ______________________________
Signature of vendor doing business with the governmental entity  Date
**CONFLICT OF INTEREST QUESTIONNAIRE**  
**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.

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.

- [x] Yes
- [ ] No

(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 in this section is being disclosed.

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor 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 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 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 interest of one percent or more?

- [ ] Yes
- [ ] No

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

---

### 4. Signature of vendor doing business with the governmental entity

__________________

__________________

Date

---

City of Waco RFQ 2016-001 Lake Brazos Dam Engineering Services

Page 20 of 49

Adopted 8/7/2015
DISCLOSURE OF RELATIONS WITH
CITY COUNCIL MEMBER, OFFICER, OR EMPLOYEE OF CITY OF WACO

Failure to fully and truthfully disclose the information required by this form may result in the termination of any business the City is now doing with the entity listed below and/or could impact future dealings.

1. Name of Entity/Business/Person doing business with City: ______________________________________________

   Is the above entity: (Check one)
   ☐ A corporation ☐ A partnership ☐ A sole proprietorship or an individual
   ☐ Other (specify): ____________________________________________________________________________

   Check all applicable boxes.

2. Is any person involved as an owner, principal, or manager of name listed in #1 related to or financially dependent on Council member, officer, or employee of the City of Waco?
   ☐ NO -- there is no such relationship between Entity/Business/Person and the City of Waco.
   ☐ YES, a person who is a/an ☐ owner, ☐ principal, or ☐ manager of this entity/business/person is:
     (Check all applicable boxes below)
     ☐ related to by blood or marriage* and/or ☐ a member of the same household as
     and/or ☐ financially dependent upon** and/or ☐ financially supporting**
     to a City of Waco ☐ City Council member, ☐ officer or ☐ employee.

   * As used here, “related to” means a spouse, child or child’s spouse, and parent or parent’s spouse. It also includes a former spouse if a child of that marriage is living (the marriage is considered to continue as long as a child of that marriage lives).
   ** As used herein, “financially dependent upon” and “financially supporting” refers to situations in which monetary assistance—including for lodging, food, education, and debt payments—is provided by owner, principal or manager of #1 to Council member, officer or employee of City of Waco, or that Council member, officer or employee of City of Waco provides to owner, principal or manager of #1.

   If YES, provide (a) the name of owner, principal, or manager, and (b) the name of the City Council member, officer or employee (include the department the City officer or employee works for, if known), and (c) if a relationship by marriage or by blood/kinship exists. (Use back of sheet if more space is needed)

<table>
<thead>
<tr>
<th>(a) Name of owner, principal, or manager</th>
<th>(b) Name of Council member, officer or employee &amp; department</th>
<th>(c) What is relationship or household arrangement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Is a current City Council member or City employee involved with the name listed in #1 as an owner, principal, manager, or employee, or employed as a contractor for name listed in #1?
   ☐ NO (no person involved/working for Entity/Business/Person is Council member, officer or employee of the City).
   ☐ YES, a person is (Check all applicable boxes)
     (a) a current City of Waco ☐ City Council member, ☐ officer or ☐ employee ,
     (b) and is ☐ an owner, ☐ a principal, or ☐ a manager of the entity/business/person listed in #1,
     or ☐ an employee or ☐ an independent contractor of the entity/business/person listed in #1.

   If YES, provide the name of owner, principal, manager, employee or independent contractor who is a City Council member, officer or employee. Include the department the City officer or employee works for, if known.

______________________________________________________________________________________________

Signature: ____________________________ Phone #: __________________ Date: __________________

Print Name: __________________________ Print Title: ________________________________

PLEASE SIGN AND RETRn WITH SUBMITTAL

Revised 12/30/2014
LITIGATION DISCLOSURE

Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your bid from consideration or termination of the contract, once awarded.

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

   Circle One  YES  NO

2. Have you or any member of your Firm or Team been terminated (for cause or otherwise) from any work being performed for the City of Waco or any other Federal, State or Local Government, or Private Entity?

   Circle One  YES  NO

3. Have you or any member of your Firm or Team been involved in any claim or litigation with the City of Waco or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

   Circle One  YES  NO

If you have answered “Yes” to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your bid.

Name of Contractor: ____________________________________________________________

SIGNED BY: _______________________________  Date Signed: _________________________

Print Or Type Name And Title: ____________________________________________________

PLEASE SIGN AND RETURN WITH SUBMITTAL
CITY OF WACO
Purchasing Services
Minority/Women Owned Business Certification

The City of Waco is committed to assuring that all businesses are given prompt, courteous, and equal opportunity to provide goods and services to the City. To achieve this goal, the City Council requests the minority women owned status of each vendor on the City vendor list.

Definition: A Disadvantaged Minority and Woman owned Business Enterprise means a business concern owned and controlled by socially and economically disadvantaged individuals. This means any business concern that a) is at least 51% owned by one or more socially and economically disadvantaged individuals; or in the case of publicly owned businesses, at least 51% of the stock which is owned by one or more socially or economically disadvantaged individuals; and b) whose management and daily operations are controlled by one or more other socially and economically disadvantaged individuals who own it. The groups included in this program are Black Americans, Hispanic Americans, Women, Asian Pacific Americans, and Native Americans.

Certification: Bidder declares a minority and/or women owned business status:

____ YES  ______ NO

If yes, check one of the blocks (indicate male or female):

Black M/F____; Hispanic M/F____; Woman_____; Asian M/F____;

Native American M/F____.

COMPANY NAME:________________________________________________________

AUTHORIZED SIGNATURE: ______________________________________________

TITLE:________________________________________________

DATE:________________________________________________

PLEASE SIGN AND RETURN WITH SUBMITTAL
INSTRUCTIONS FOR CERTIFICATION REGARDING DISBARMENT, ETC.

1. By signing and submitting this proposal, the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPIENT) is providing the certification.

2. The certifications in this clause are a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPIENT) knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPIENT) shall provide immediate written notice to the person to whom this bid/proposal is submitted if at any time the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPIENT) learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPIENT) agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPIENT) further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

Project Name: ____________________________________________________________
Location: __________________________________________________________________
RFB/RFP #: __________________________________________________________________

TO:  CITY OF WACO
     GENERAL SERVICES
     P.O. BOX 2570
     WACO, TX 76702-2570

This certification is required or may be required by the regulations implementing Executive Order 12549. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). For further assistance in obtaining a copy of the regulations, contact the City of Waco General Services Department.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS)

(1) The prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPEINT) certifies, by submission of this proposal that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or State department or agency.

(2) Where the prospective lower tier participant (BIDDER/PROPOSER/SUBRECIPEINT) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Company __________________________________________________________________

Name and Title of Authorized Representative __________________________________________________________________

Signature ___________________________ Date __________

PLEASE SIGN AND RETURN WITH SUBMITTAL
** NON-COLLUSION AFFIDAVIT OF PRIME BIDDER **

THE STATE OF _______________

COUNTY OF ________________

__________________________________
(print-type name), being first duly sworn, deposes and says that:

1. He/she is the ________________________________(owner, partner, officer, representative, or agent) of ________________________________, the Bidder that has submitted the attached Bid:

2. He/she is fully informed respecting the preparation and contents of the attached Bid.

3. Such Bid is genuine and is not a collusive or sham bid:

4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement, or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices in the attached Bid or of the bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the AGENCY or any person interested in the proposed Contract; and

5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties on interest, including this affiant.

__________________________________
Signature

__________________________________
Title

THE STATE OF ________________

COUNTY OF ________________

Before Me, the undersigned authority, a Notary Public in and for ______________________, on this day personally appeared ____________________ known to me to be the persons whose names are subscribed to the foregoing instruments, and acknowledged to me that they executed same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this ___________ day of __________
_________ A.D., 20__.

__________________________________
Notary Public Signature

Seal

PLEASE SIGN AND RETURN WITH SUBMITTAL
RESIDENT CERTIFICATION

Texas Government Code - Chapter 2252 “Contracts With Governmental Entity”
Subchapter A. Nonresident Proposers

In accordance with Chapter 2252 of the Texas Government Code, a governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident bidder underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident’s principle place of business is located.

Section 2252.001 includes the following definitions:

1. “Government contract” means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.
2. “Governmental entity” means a municipality, county, public school district, or special-purpose district or authority;
3. “Nonresident bidder” refers to a person who is not a resident.
4. “Resident Bidder” refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

As used on this form, the term “bidder” includes a person or business entity responding to a request for bids or competitive sealed proposal of request for qualifications.

I certify that as defined in Texas Government Code, Chapter 2252 that:

COMPANY NAME: ____________________________________________________________

Yes, I am a Texas Resident Bidder _______ No, I am not a _______ Resident Bidder

PRINTED NAME: ______________________________________________________________

SIGNATURE: _________________________________________________________________

E-MAIL ADDRESS: ____________________________________________________________

PLEASE SIGN AND RETURN WITH SUBMITTAL
Texas Public Information Act
Steps To Assert Information Confidential or Proprietary

All proposals, data, and information submitted to the City of Waco are subject to release under the Texas Public Information Act ("Act") unless exempt from release under the Act. You are not encouraged to submit data and/or information that you consider to be confidential or proprietary unless it is absolutely required to understand and evaluate your submission.

On each page where confidential or proprietary information appears, you must label the confidential or proprietary information. Do not label every page of your submission as confidential as there are pages (such as the certification forms and bid sheet with pricing) that are not confidential. It is recommended that each page that contains either confidential or proprietary information be printed on colored paper (such as yellow or pink paper). At a minimum the pages where the confidential information appears should be labeled and the information you consider confidential or proprietary clearly marked.

Failure to label the actual pages on which information considered confidential appears will be considered as a waiver of confidential or proprietary rights in the information.

In the event a request for public information is filed with the City which involves your submission, you will be notified by the City of the request so that you have an opportunity to present your reasons for claims of confidentiality to the Texas Attorney General.

In signing this form, I acknowledge that I have read the above and further state:

☐ The proposal/bid submitted to the City contains NO confidential information and may be released to the public if required under the Texas Public Information Act.

☐ The proposal/bid submitted contains confidential information which is labeled and which may be found on the following pages: ____________________________________________

________________________

and any information contained on page numbers not listed above may be released to the public if required under the Texas Public Information Act.

Vendor/Proposer Submitting: __________________________________________

Signature: ___________________________ Date: __________________

Print Name: ___________________________ Print Title: __________________

PLEASE SIGN AND RETURN WITH SUBMITTAL

Revised 10/15/2012
Appendix B

Procedure to Protest Award Recommendation

A. If a firm or person believes it is injured as a result of an RFQ, a written protest may be filed.

B. The written protest may be delivered to the City’s Purchasing Services Department (“Purchasing”) in person to the department offices located at 1415 N. 4th St., Waco, Texas, 76707, or by certified mail, return receipt requested, to the following address:

   Purchasing Services c/o City of Waco
   Post Office Box 2570
   Waco, Texas 76702-2570

C. The written protest must be filed no later than 5:00 p.m. on the fifth (5th) business day from the date of receipt of notification of the recommendation for the contract award.

D. The written protest must include the following information before it may be considered:
   1. Name, mailing address, and business phone number of the protesting party;
   2. Identification of the RFQ being protested;
   3. A precise and concise statement of the reason(s) for the protest which should provide enough factual information to enable a determination of the basis of the protest; and
   4. Any documentation or other evidence supporting the protest.

E. In conjunction with the department that requested the RFQ, Purchasing will attempt to resolve the protest, which may at Purchasing’s discretion include meeting with the protesting party. If the protest is successfully resolved by mutual agreement, written verification of the resolution of each ground addressed in the protest will be provided to the city manager or designee assistant city manager.

F. If the Purchasing is unable to resolve the protest, the protesting party may request the protest be reviewed and resolved by the city manager or designee assistant city manager.

G. A request for the city manager’s review must be in writing and received by the Purchasing within three (3) business days from the date the Purchasing informs the protesting party the protest cannot be resolved. The request for review must be delivered in person to the Purchasing at the address stated above or by certified mail, return receipt requested, to the mailing address stated above.

H. If a protesting party fails or refuses to request a review by the city manager within the three (3) days, the protest is deemed finalized and no further review by the city is required.

I. Applicable documentation and other information applying to the protest may be submitted by the protesting party to the Purchasing before review by the city manager. If the protesting party requests a review by the city manager, such documentation will be forwarded to the city manager or designee assistant city manager for consideration. The city manager or designee assistant city manager may likewise notify the protesting party or any city department to provide additional information. The decision reached by the city manager or designee assistant city manager will be final, but the protesting party may still appear before the City Council during the Hearing of the Visitors session of a City Council meeting.
Appendix C

Insurance, Bonding, and Indemnification Requirements

Insurance
Prior to the commencement of any work under this Contract, Contractor shall furnish original proof of insurance to include completed/current Certificate(s) of Insurance, endorsements, exclusions, and relevant extracts from the insurance policy, or copies of policies to the City’s Risk Management Department, and shall be clearly labeled “Contract Name”, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Contract until such proof of insurance shall have been delivered to the City Risk Management Department, and no officer or employee, other than the City’s Risk Manager, shall have authority to waive this requirement.

The City reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City’s General Services Director based upon changes in statutory law, court decisions, or circumstances surrounding this contract, but in no instance will City allow modification whereupon City may incur increased risk.

A Contractor’s financial integrity is of interest to the City; therefore, subject to Contractor’s right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor’s sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

<table>
<thead>
<tr>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers’ Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employer’s Liability</td>
<td>$1,000,000/$1,000,000/$1,000,000</td>
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<td>Comprehensive General Liability</td>
<td>$1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage</td>
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<td></td>
</tr>
<tr>
<td>Professional Liability (Claims Made Form)</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

Contractor shall attempt by reasonable diligence and in good faith to maintain and keep in force and effect liability insurance providing Contractor with professional liability coverage in a minimum sum of $500,000.00 during the term of this contract and for a period of seven (7) years thereafter, either through an existing carrier or a carrier of comparable financial statute and reputation.

**Term of Policy.** The required coverage must remain in effect for a two (2) year period following the expiration of the contract with the City.

**Proof of Insurance Required.**

**Examination & Approval.** All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form and content, form of protection, and financial status of insurance company.

**When to Submit.** Within ten (10) days after execution of the contract and prior to the commencement of any work or services under this contract, Bidder shall furnish to the Risk Manager for City originals of completed certificates of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy, or copies of the policies, plainly and clearly evidencing such insurance. Thereafter new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, or policies shall be provided prior to the expiration date of any prior certificate, endorsement, or policy.

**Insurers.** Bidder shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas and satisfactory to the City.

**Additional Insured.** Except for Workers’ Compensation and Employers’ Liability, the City, its elected officials, officers, servants, agents, volunteers and employees shall be named as additional insureds. No officer or employee, other than the Risk Manager, shall have authority to waive this requirement.

**Other-Insurance Endorsement --** All insurance policies are to contain or be endorsed to contain the following additional provisions:

1. “Other insurance” clause shall not apply to the City where the City is an additional insured shown on the policy; and
2. Provide not less than ten (10) calendar days advance notice to the City of any suspension, cancellation, non-renewal or material change in coverage.

**Agent Information.** The certificate(s) must be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed directly from the agent to the City.
Precondition to Performance & Basis for Termination. The City shall have no duty to pay or perform under the contract until such certificate(s), policy endorsements, exclusions, and/or relevant extracts from the insurance policy shall have been delivered to the City’s risk manager. Bidder understands that it is its sole responsibility to provide this necessary information to the City and that failure to timely comply with the requirements of this section shall be a cause for termination of this Agreement. If the City determines that it will deny payment, not perform, or terminate this contract because of the failure to provide certain information or documents, the City shall give Bidder notice of that determination and allow Bidder fifteen days to correct the deficiency.

Waiver of Subrogation. Workers’ compensation and employers’ liability policies will provide a waiver of subrogation in favor of the City.

Notice of Cancellation, Non-renewal, Material Change. When there is a cancellation, non-renewal, or material change in coverage which is not made pursuant to a request by the City, Bidder shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Bidder knows of said change in advance, or ten (10) days’ notice after the change, if the Bidder did not know of the change in advance. Such notice must be accompanied by a replacement certificate(s) of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy.

SELECTED BIDDER AGREES TO ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE SERVICES RENDERED PURSUANT TO THE CONTRACT AWARDED UNDER THIS REQUEST FOR BID AND HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS, OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY, OR IN CONNECTION WITH, THE SERVICES TO BE RENDERED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OF ACTIONS ARE CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND SOME OTHER THIRD PARTY. SELECTED BIDDER AGREES THAT ANY INSURANCE CARRIER INVOLVED SHALL NOT BE ENTITLED TO SUBROGATION UNDER ANY CIRCUMSTANCES AGAINST THE CITY, IT OFFICERS, OFFICIALS, AND EMPLOYEES.

Employee Litigation: In any and all claims against any party indemnified hereunder by any employee (or the survivor or personal representative of such employee) of Bidder, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the work, or anyone for whose acts any of them may be liable, the indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Bidder or any such subcontractor, supplier, or other individual or entity under workers’ compensation or other employee benefit acts.
Appendix D

MASTER AGREEMENT FOR ENGINEERING SERVICES
AT LAKE BRAZOS DAM

THE STATE OF TEXAS

§

COUNTY OF McLennan

§

KNOW ALL MEN BY THESE PRESENTS:

THIS MASTER AGREEMENT is made by and between the CITY OF WACO, TEXAS, hereinafter jointly referred to as the “CITY,” acting pursuant to the action of its City Council in Resolution No. _____ approved on ________, 201_, and ___ [Engineer’s Name]______, of _____, ____, hereinafter referred to as “ENGINEER,” is made and entered into as of the ________, 201_ (the “Effective Date”). Collectively, City and Engineer are hereinafter referred to as the “Parties.”

WHEREAS, Engineer submitted a Statement of Qualifications in response to the City’s Request for Qualifications for the Lake Brazos Dam; and

WHEREAS, based on the written submission, as well as an oral presentation (if applicable), Engineer was determined to be the best qualified provider of Professional Services for the Lake Brazos Dam; and

WHEREAS, working from this Master Agreement, CITY will engage Engineer to provide certain professional services for Lake Brazos Dam as described in separate Work Orders to be issued hereunder pursuant to the terms and conditions hereinafter set forth,

NOW, THEREFORE, the Parties, in consideration of the foregoing recitals and the mutual covenants hereinafter set forth and in subsequently issued Work Orders, the parties hereto do mutually agree as follows:

1. TERMS OF AGREEMENT

1.1. The City hereby employs the Engineer, and the Engineer agrees to perform the necessary services hereinafter set forth. The term of this Agreement shall be from the Effective Date, and for three years, with a possibility of two (2) one-year extensions at the mutual consent of both parties, unless sooner terminated as provided herein or extended by a written instrument signed by both Parties.

1.2. This contract is subject to and incorporates, as if fully set forth herein, the terms and conditions of the document attached hereto and marked Exhibit A entitled "Terms and Conditions," the Request for Qualifications issued by the City, and the Statement of Qualifications submitted by Engineer.

1.3. Contract Documents/Order of Precedence. All activities and transactions contemplated by this contract will be governed by the following documents, cited below in order of precedence from highest to lowest in the event of any conflict between them. Any change to any document made in accordance with the amendment
procedure stated in Section 4.9 of this contract or in accordance with Section 3 of Exhibit A (Changes in Service) will take precedence over all previous versions of the changed document. The order of precedence shall be:

1.3.1. This Agreement and the Exhibits attached to it;

1.3.2. ________________’s Statements of Qualifications, dated ________, 201_, which is incorporated herein by reference;

1.3.3. Request for Qualifications issued by the City of Waco and all addendums to said RFQ, which is incorporated herein by reference. The specifications of the RFQ shall control unless the Proposal took specific exception to the specification or unless specifically provided for in this Agreement;

1.3.4. Any Schedules attached to this Agreement; and

1.3.5. Any written questions of Waco seeking clarification of the proposal and the responses thereto.

2. **SERVICES**

2.1 This Agreement provides the terms upon which CITY may avail itself of the professional services of Engineer from time to time over the period of time specified hereinafter.

2.2 Engineer agrees to provide, in accordance herewith, the professional services described in each separate Work Order issued hereunder (the "Services"). Each Work Order, when signed by the Parties, shall be incorporated into and form a part of this Agreement. Each such Work Order shall contain a Project Description, a detailed Scope of Basic and Special Services, Project Schedule, Deliverables, Compensation Terms and special provisions or conditions specific to the Services or project being authorized (the "Project"). Unless specifically stated otherwise in the Work Order, the terms of this agreement shall govern if there is a conflict between this agreement and a Work Order.

2.3 Should CITY issue a purchase order or other instrument related to Engineer's Services, it is understood and agreed that such document is for CITY's internal accounting purposes only and shall in no way modify, add to, or delete any of the terms and conditions of this Agreement. If CITY does issue a purchase order or other similar instrument, it is understood and agreed that Engineer shall indicate the purchase order number on the invoices sent to CITY.
2.4 Since Engineer has no control over the cost of labor, materials, or equipment or over a contractor's methods of determining prices, or over competitive bidding or market conditions, when requested by CITY to estimate project construction costs, Engineer's opinions of probable costs provided as a service hereunder are to be made on the basis of its experience and qualifications and represent its best judgment as a design professional familiar with the construction industry; however, Engineer cannot and does not guarantee that proposals, bids, or the construction costs will not vary from opinions of probable costs prepared by it.

2.5 The standard of care applicable to services performed by Engineer will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar Services at the time said services are performed. Engineer will reperform any engineering or related services not meeting this standard without additional compensation.

3. **PAYMENTS**

3.1 The specific services to be performed by Engineer under this contract for this Project as stated in each Work Order, which will be attached hereto and incorporated herein for all purposes. For the services described in each Work Order, the City shall compensate Engineer.

3.2 Invoices will be submitted to the City of Waco in accordance with Exhibit A. All books, records, accounts of Engineer shall be open for inspection by the City or the City's authorized representative at all reasonable times for a period of 3 years after Engineer’s final invoice to the extent required to verify the direct costs (excluding established or standard allowances and rates) incurred hereunder.

4. **MISCELLANEOUS PROVISIONS**

4.1 **Venue:** Venue for any lawsuit involving this agreement shall be in McLennan County, Texas.

4.2 **Choice of Law:** This contract is governed by the laws of the State of Texas.

4.3 **Entire Contract:** This agreement constitutes the entire agreement between City and Engineer, and all negotiations and all understandings between the Parties are merged herein. The terms and conditions of this contract specifically replace and supersede any prior discussions, terms, documents, correspondence, conversations, or other written or oral understanding not contained herein or specifically adopted by reference.

4.4 **Partial Invalidity:** If any term, provision, covenant, or condition of this contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the
remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

4.5. **Survival:** Any provisions which by their terms survive the termination of this contract shall bind its legal representatives, heirs, and assigns as set forth herein.

4.6. **Assignment:** Engineer shall not assign, transfer, or encumber any right or interest in this contract, in whole or in part, without prior written approval of City.

4.7. **Notices:** Each notice to City shall be sent to the designated City Representative and each notice to Engineer shall be sent to the designated Engineer Representative or their designees as outlined in this Agreement. Each formal notice required by the terms of this contract shall be in writing and sent by facsimile, telex, courier or by registered or certified mail.

4.8. **Benefits:** This contract shall bind, and the benefits thereof shall inure to the respective parties hereto, their heirs, legal representative, executors, administrators, successors, and assigns.

4.9. **Amendments:** This contract can be supplemented and/or amended only by a dated written document executed by both parties.

4.10. **Gender:** Words of any gender used in this contract shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

4.11. **Exhibits:** All exhibits described in this contract are attached hereto and incorporated herein by reference for all purposes. Exhibits attached this contract are:

4.11.1. Exhibit A - Terms and Conditions
4.11.2. Exhibit B - Drug-Free Workplace Act Certification
4.11.3. Each Work Order will be added as an Exhibit as each is signed by the Parties

4.12. **Multiple Copies:** This contract may be executed in multiple counterparts each of which constitutes an original.

4.13. **Article and Section Headings:** The Article and Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this contract.

4.14. **Misspelled Words:** Misspelling of one or more words in this contract shall not void this contract. Such misspelled words shall be read so as to have the meaning apparently intended by the parties.
CITY OF WACO, TEXAS

BY: ______________________________________
    Dale A. Fisseler, P.E., City Manager

ATTEST:

________________________________________
    Date Signed: __________________________
    Esmeralda Hudson, City Secretary

APPROVED AS TO FROM & LEGALITY:

________________________________________
    Jennifer Richie, City Attorney

APPROVED:

________________________________________
    Wiley Stem, Assistant City Manager

APPROVED:

________________________________________
    Lisa Tyer, Director of Water Utility Services

__________________________________________ ("Engineer")

By: __________________________
    Print Name: __________________________
    Print Title: __________________________

ATTEST: __________________________   Date Signed: __________________________
    Print Name: __________________________
    Print Title: __________________________
EXHIBIT A

TERMS AND CONDITIONS

1. **City representative.** The Director of Water Utility Services for the City, and such other and additional persons as City may designate, shall be City's representative(s) and shall act for City in all matters concerning the project, including transmittal of instructions, receiving information, and interpreting and defining City policies and decisions with respect to the materials, equipment, elements, and systems of the project. City shall not be bound by the actions or representations of any other employee(s) or agent(s) of City.

2. **Submitting invoices.**

   (a) In the event invoices are submitted or otherwise used pursuant to this contract or project, the billing party shall present invoices in the following form and content:

   (1) Each invoice must reference the City of Waco contract or project number;

   (2) Only one contract or project shall be billed on a particular invoice;

   (3) No more than one invoice per every thirty (30) days per contract or project may be submitted;

   (4) Each invoice must have a billing number which reflects in sequence the number of invoices that have been previously submitted on the contract or project;

   (5) Such information required herein must be submitted only on an invoice and not in any other non-invoice form or document.

   (6) Each invoice will show the following:
      i) “Total Contract” amount;
      ii) “Total of Work Completed to Date”;
      iii) “Total Fee Previously Billed” and,
      iv) “Invoice Total,” which is calculated by subtracting (iii) from (ii).

   (b) The invoice requirements stated herein shall not be read to disallow or exclude other information that may be otherwise required or requested by City.

3. **Changes in services.** City may from time to time request changes in the scope of the services of Engineer to be performed hereunder. Such changes, including any increase or decrease in the amount of Engineer's compensation, which are mutually agreed upon by and between City and Engineer shall be incorporated in written amendments to the contract. Such amendments may require approval of other agencies, departments, or governmental bodies.
4. **Personnel.**

(a) Engineer represents that he has, or will secure at his expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of City.

(b) All the services required hereunder will be performed by Engineer or under his supervision, and all personnel engaged in the work shall be authorized or permitted under state and local law to perform such services.

(c) No person who is serving sentence in a penal or correctional institution shall be employed on work under this contract.

5. **Anti-Kickback Rules.** Salaries of architects, draftsmen, technical engineers, and technicians performing work under this contract shall be paid unconditionally and not less often than once a month without deductions except as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the “Anti-Kickback Act,” of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18. U.S.C., section 874; and Title 40 U.S.C., Section 276C). Engineer shall comply with all subcontracts covering work under this contract to insure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemption from the requirements thereof.

6. **Withholding of Salaries.** If, in the performance of this contract, there is any underpayment of salaries by Engineer or by any subcontractors thereunder, City shall withhold from Engineer out of payments due to him an amount sufficient to pay to employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by City for and on account of Engineer or subcontractor of the respective employees to whom they are due.

7. **Claims and Disputes Pertaining to Salary Rates.** Claims and disputes pertaining to salary rates or to classifications of architects, draftsmen, technical engineers, and technicians performing work under this contract shall be promptly reported in writing by Engineer to City for a City decision, which shall be final with respect thereto.

8. **Equal Employment Opportunity.** During the performance of this contract, Engineer agrees as follows:

(a) Engineer will not discriminate against any employee or applicant for employment because of race, creed, color, handicap, age, sex, or national origin. Engineer will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, handicap, age, 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. Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by City, setting forth the provisions of this nondiscrimination clause.
(b) Engineer will, in all solicitations or advertisements for employees placed by or on behalf of Engineer, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, handicap, age, sex, or national origin.

(c) Engineer will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. **Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this contract shall be discharged or in any way discriminated against because he or she has filed any complaint or instituted or caused to be instituted any proceedings or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his or her employer.

10. **Compliance with Laws.** Engineer shall comply with all applicable laws, ordinances, and codes of the state, federal, and local governments and shall commit no trespass on any public or private property in performing any of the work embraced by this contract.

11. **Subcontracting.** None of the services covered by this contract shall be subcontracted without the prior written consent of City. Engineer shall be as fully responsible to City for the acts and omissions of his subcontractors, and of persons, whether directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. Engineer shall insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions of this contract.

12. **Assignment.** Engineer shall not assign, sublet, or transfer its interests in this contract (whether by assignment or novation) without the prior written approval of City; provided, however, that claims for money due, or to become due, Engineer from City under this contract may be assigned to a bank, trust company, other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to City.

13. **Successors.** City and Engineer each binds itself, its successors, executors, administrators, and assigns, to the other party in respect to all covenants of this contract, unless otherwise excepted herein.

14. **No interests by parties.**

   (a) **Members of City.** No member of the governing body of City, and no other officer, employee, or agent of City who exercises any functions or responsibility in connection with the carrying out of the project to which this contract pertains, shall have any personal interest, direct or indirect, in this contract.

   (b) **Other local public officials.** No member of the governing body of the locality in which the project to which this contract pertains is located and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of the project shall have any personal interest, direct or indirect, in this contract.
(c) **Certain federal officials.** No members of, or delegate to, the Congress of the United States and no resident commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom.

(d) **Engineer.** Engineer covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the above described project, or any parcels therein, or any other interest which would conflict in any manner or degree with any of the performance of the service hereunder. Engineer further covenants that in the performance of this contract no person having any such interest shall be employed.

15. **Findings confidential.** All of the reports, drawings, maps, documentation, data, and other information prepared or assembled by Engineer under this contract are confidential, and Engineer agrees that they shall not be made available to any individual or organization without the prior written approval of City.

16. **Insurance.**

(a) **Types; amounts.** Subject to Engineer’s right to maintain reasonable deductibles in such amounts as are approved by the City, Engineer shall obtain and maintain in full force and effect for the duration of the services to be performed under the contract, and any extension hereof, at Engineer’s sole expense, insurance coverage written on an occurrence basis, in the following types and minimum amounts:

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</tr>
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(b) **Professional Liability Insurance:** Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an “occurrence” or “claims-made” basis. If this coverage is being provided on a claims-made basis, CONSULTANT must
maintain this policy for a period of seven (7) years after the completion of the project or shall purchase the extended reporting period or “tail” coverage insurance providing equivalent coverage for the same period of time.

(c) Proof of Insurance Required.

1. Examination & Approval. All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form and content, form of protection, and financial status of insurance company.

2. When to Submit. Within ten (10) days after execution of the contract and prior to the commencement of any work or services under this contract, Engineer shall furnish to the Risk Manager for City originals of completed certificates of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy, or copies of the policies, plainly and clearly evidencing such insurance. Thereafter new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, or policies shall be provided prior to the expiration date of any prior certificate, endorsement, or policy.

3. Insurers. Engineer shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas and satisfactory to the City.

4. Additional Insured. Except for Workers’ Compensation, Employers’ Liability and Professional Liability, the City, its elected officials, officers, servants, agents, volunteers and employees shall be named as additional insureds. No officer or employee, other than the Risk Manager, shall have authority to waive this requirement.

5. Other-Insurance Endorsement. All insurance policies are to contain or be endorsed to contain the following additional provisions:

   A. “Other insurance” clause shall not apply to the City where the City is an additional insured shown on the policy; and

   B. Provide not less than ten (10) calendar days advance notice to the City of any suspension, cancellation, non-renewal or material change in coverage.

6. Agent Information. The certificate(s) must be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed directly from the agent to the City.

7. Precondition to Performance & Basis for Termination. The City shall have no duty to pay or perform under the contract until such certificate(s), policy endorsements, exclusions, and/or relevant extracts from the insurance policy shall have been delivered to the City’s risk manager. Bidder understands that it is its sole responsibility to provide this necessary information to the City and that failure to timely comply with the requirements of this section shall be a cause for termination of this Agreement. If the City determines that it will deny payment, not perform, or terminate this contract because of the failure to provide certain information or documents, the City shall give Bidder notice of that determination and allow Bidder fifteen days to correct the deficiency.
(8) Waiver of Subrogation. Workers’ compensation, employers’ liability, and profession liability policies will provide a waiver of subrogation in favor of the City.

(9) Notice of Cancellation, Non-renewal, Material Change. When there is a cancellation, non-renewal, or material change in coverage which is not made pursuant to a request by the City, Bidder shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Bidder knows of said change in advance, or ten (10) days’ notice after the change, if the Bidder did not know of the change in advance. Such notice must be accompanied by a replacement certificate(s) of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy.

17. Indemnity.

(a) ENGINEER covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly, arising out of, caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier, committed by the ENGINEER or ENGINEER’S agent, consultant under contract, or another entity over which the ENGINEER exercises control.

(b) The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

(c) Employee Litigation. In any and all claims against any party indemnified hereunder by any employee (or the survivor or personal representative of such employee) of Engineer, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the work, or anyone for whose acts any of them may be liable, the indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Engineer or any such subcontractor, supplier, or other individual or entity under workers’ compensation or other employee benefit acts.

(d) ENGINEER shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or ENGINEER known to ENGINEER related to or arising out of ENGINEER’s activities under this contract.

(e) Waiver of subrogation. The Engineer further agrees to waive any and all claims and suits covered by this indemnity provision and agrees that any insurance carrier involved shall not be entitled to subrogation under any circumstances against the city, its officers, agents, or employees.
18. **Engineer as independent contractor.** In the performance of the professional services required by this contract, Engineer is and shall be deemed to be an “independent contractor,” not an agent, servant, or employee of City. Likewise, employees of Engineer are not the agents, servants, or employees of City. It is mutually agreed that nothing contained herein shall be deemed or construed to constitute a partnership or joint venture between Engineer and City.

19. **Drug-free Workplace.** Engineer shall be subject to the drug-free workplace requirements as set forth in EXHIBIT B, which is incorporated herein by reference and made a part hereof for all purposes.

20. **Federal/State Grants.** If federal or state grant funds are involved in the funding of the project, then the conditions of those respective grants are incorporated herein by reference and made a part hereof for all purposes.

21. **Tax Certification.** Engineer hereby certifies that he is not delinquent in the payment of any taxes owed to City or that he will pay any taxes owed to City so that such taxes will not become delinquent. If this certification is subsequently determined to be false, such false certification shall constitute grounds for termination of the contract at the option of City. This contract is subject to Article VIII, Section 8 of the City of Waco, Texas Charter, as amended, which reads as follows:

   *Arrears of taxes offset to debt against city:*

   *The City shall be entitled to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation who is in arrears to the City of Waco for taxes, in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.*

22. **Offset of Other Debts Against City.** Engineer agrees that City is entitled to counterclaim and offset against any debt, claim, demand, or account owed by City to Engineer, pursuant to this contract, for any debt owed to City, other than for arrearage of taxes, which are governed by Section 20 of this contract. City may withhold from payment under this contract an amount equal to the total amount of debts owed to City by Engineer, excluding arrearage of taxes, which are governed by Section 20 of this contract. City may apply the amount withheld to the debts owed to City by Engineer until said debts are paid in full.

23. **Termination of Contract.**

   (a) **For cause.** If, through any cause, Engineer shall fail to fulfill in timely and proper manner his obligations under this contract, or if Engineer shall violate any of the covenants, agreements, or stipulations of this contract, City shall thereupon have the right to terminate this contract by giving written notice to Engineer of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, drawings, data, studies, and reports prepared by Engineer under this contract or prepared by any subcontractor of Engineer shall be the sole property of City, but Engineer shall be entitled to
receive equitable compensation for any satisfactory work completed on such documents, drawings, data, studies, and reports.

(b) **Offset for damages.** Notwithstanding the above, Engineer shall not be relieved of liability to City for damages sustained by City by virtue of any breach to the contract by Engineer, and City may withhold any payments to Engineer for the purpose of offset until such time as the exact amount of damage due from City to Engineer is determined.

(c) **For convenience of City.** City may terminate this contract at any time and for any or no reason by a notice in writing from City to Engineer. Written notice shall be deemed to have been duly served if delivered in person, or sent by registered or certified mail, to the last business address of Engineer known to City.

(d) **Compensation for services performed.** If the contract is terminated by City as provided herein, Engineer shall be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Engineer covered by this contract, less payments of compensation previously made; provided, however, that if less than sixty percent (60%) of the services covered by the contract have been performed upon the effective date of such termination, Engineer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under the contract) incurred by Engineer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of Engineer, paragraph (a), hereof relative to termination, shall apply.

(e) In the event this contract is terminated for any reason, all finished or unfinished documents, drawings, data, studies, and reports prepared by Engineer under this contract or prepared by any subcontractor of Engineer shall be the sole property of City, but Engineer shall be entitled to receive equitable compensation for any satisfactory work completed on such documents, drawings, data, studies, and reports as provided in (d).

### 24. Obligations of Engineer.

(a) **Standard of Care**

The standard of care applicable to Engineer's engineering or related services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar Services at the time said services are performed. Engineer will reperform any engineering or related services not meeting this standard without additional compensation.

(b) **Subsurface Investigations**

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total Project cost and/or execution.
(c) Engineer's Personnel at Construction Site

1. The presence or duties of Engineer's personnel at a construction site, whether as onsite representatives or otherwise, do not make Engineer or Engineer's personnel in any way responsible for those duties that belong to City and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction contract documents and any health or safety precautions required by such construction work. The provisions of this agreement establish the rights and duties between the parties to this agreement and are solely for the benefit of the parties. This agreement is not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

(d) Opinions of Cost, Financial Considerations, and Schedules

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, Engineer has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by operating personnel or third parties; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. Therefore, Engineer makes no warranty that City's actual Project costs, financial aspects, economic feasibility, or schedules will not vary from Engineer's opinions, analyses, projections, or estimates.

(e) Record Drawings

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed.

(f) Security Measures

1. Engineer will check system integrators working on SCADA system to make sure they have the latest antivirus software patches loaded. Engineer will thoroughly test and integrate all the PLCs and SCADA software with minimal disruption to operating systems. At the end of the project, the system integrator will turn in all the working electronic program files to the City of Waco. Once the system integrator is finished, the TWG Team will check to see there are no network “back doors” open, change all the passwords, and provide additional security measures so that there is no access to the SCADA system from outside.
2. At the conclusion of the project, or the phase of the project that a particular contractor or subcontractor is working on, Engineer shall oversee that all the project documents in the possession of the contractor or subcontractor are shredded into confetti.
3. Engineer shall institute procedures to ensure that project materials will be kept confidential at all times and that persons are only given access on a need to know basis. Engineer shall establish a clear project chain of command which is followed rigorously to ensure that information is exchanged only as specified. Engineer shall also isolate all project working files in a secure, encrypted project library with access only to authorized users with two levels
of password protection. Engineer shall conduct periodic security surveys to make sure all the project team members are following the security procedures.

4. Much of the documentation developed during this project will be electronic. All electronic media generated should be stored on the Engineer’s WAN/LAN system for security and daily backup. Subcontractors will submit electronic copies of deliverables so that the documents can be saved with the remainder of the project files both electronically and in secure hard copy files.

25. Obligations of City

(a) City-Furnished Data
City will provide to Engineer all data in City's possession relating to Engineer's Services. Engineer will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by City. Engineer agrees not to provide or divulge any data or information provided to Engineer by the City to a third party, unless approved by the City in advance.

(b) Access to Facilities and Property
City will make its facilities accessible to Engineer, in accordance with City’s Security System, as required for Engineer's performance of its services. City will perform, at no cost to Engineer, such tests of equipment, machinery, pipelines, and other components of City's facilities as may be required in connection with Engineer's services.

(c) Timely Review
City will examine Engineer's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as City deems appropriate; and render in writing decisions required by City in a timely manner.

(d) Prompt Notice
City will give prompt written notice to Engineer whenever City observes or becomes aware of any development that affects the scope or timing of Engineer's Services, or of any defect in the work of Engineer or partners.


(a) Authorization to Proceed
The City will issue a Notice to Proceed in a format agreed to by the parties.

(b) Delay
In the event Engineer is delayed in performance of Services by any act or neglect of City or anyone for whom City is responsible or by Acts of God, strikes, lockouts, accidents, or other events beyond the control of Engineer, then Engineer’s compensation and the work schedule shall be equitably adjusted as determined by the City. In the event delays to the work is encountered
for any reason, the parties agree to undertake reasonable steps to mitigate the effect of such delays.

(c) **Materials and Samples**  
Any items, substances, materials, or samples removed from the Project site for testing, analysis, or other evaluation will be returned to the Project site within 60 calendar days of close-out unless agreed to otherwise.

(d) **Engineer’s Deliverables**  
Engineer’s deliverables, including record drawings, are limited to the sealed and signed hard copies. Computer-generated drawing files furnished by Engineer are for City or others' convenience. Any conclusions or information derived or obtained from these files will be at user's sole risk.
EXHIBIT B
DRUG-FREE WORKPLACE ACT CERTIFICATION
ENGINEERING CONTRACT

1. Engineer certifies that he will provide a drug-free workplace by:
   (a) publishing a statement notifying employees that unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in Engineer's workplace is prohibited and specifying the actions that will be taken against employees for violation of such prohibition;
   (b) establishing a drug-free awareness program to inform employees about:
       (1) the dangers of drug abuse in the workplace;
       (2) Engineer's policy of maintaining a drug-free workplace;
       (3) any drug counseling, rehabilitation, and employee assistance programs that are available; and
       (4) penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
   (c) making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a);
   (d) notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract the employee will:
       (1) abide by the terms of the statement; and
       (2) notify City of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction;
   (e) notifying City within ten (10) days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
   (f) taking one of the following actions within thirty (30) days of receiving notice under subparagraph (d)(2) with respect to any employee so convicted:
       (1) taking appropriate personnel action against such an employee, up to and including termination; or
       (2) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
   (g) making a good faith effort to continue to maintain a drug-free workplace through implementation of the above paragraphs.

2. Engineer's headquarters is located at the following address. The addresses of all other workplaces maintained by Engineer, if any, are provided on an accompanying list.

   Name of Engineer: ____________________________________________________________
   Street Address: ______________________________________________________________
   City: __________________________ County: __________________________
   State: __________________________ Zip Code: __________________________

   SIGNED BY: __________________________________________________________________

   Print Name & Title: _____________________________________________________________
   Date Signed: __________________________________________________________________