



City of Commerce

**REQUEST FOR COMPETITIVE SEALED
PROPOSALS**

For

WTP Filter Rehab Project

20-200-01

Issue Date: March 18, 2022

**Responses must be received BEFORE:
Thursday, April 14, 2022, 2:00 PM CST**

Staff Contact Person: Howdy Lisenbee
City Manager
Email: howdy.lisenbee@commerctx.org

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RFP-CSP for WTP Filter Rehab Project

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Exhibit 1 – Construction Documents

The solicitation packet consists of this Main document, and all exhibits and Attachments identified in the table of contents.

**NOTICE TO RESPONDENTS
REQUEST FOR PROPOSALS-CSP
20-200-01**

The City of Commerce (City) intends to obtain General Contractor construction services and invites you to submit a sealed response for:

WTP FILTER REHAB PROJECT

Sealed responses addressed to City Hall will be received **BEFORE April 14, 2022 at 2:00 PM CST**, at 1119 Alamo St, Commerce TX 75428. All Responses must be in the City's possession on or before the scheduled date and time (no late response will be considered). **The City's Purchasing Department is not open for weekend or holiday deliveries.**

The response documents can be obtained at www.commerctx.org.

In accordance with the provisions of Chapter 2269 of the Texas Government Code, and the City's policies and procedures, the City of Commerce will be using the Competitive Sealed Proposal procurement method for this construction project. This method allows the City to consider a proposer's experience, quality, and qualifications in addition to the bid price for the work.

The City reserves the right to refuse and reject any or all responses, waive any or all formalities or technicalities, accept the response or portions of the response determined to be the best value and most advantageous to the City, and hold the responses for a period of 45 days without acting. Respondents are required to hold their responses firm for the same period.

Hand-delivered & Courier Submissions:

City of Commerce
1119 Alamo St, Commerce TX 75428

LABELING INSTRUCTIONS: Envelopes must be clearly marked:

**City of Commerce
REQUEST FOR PROPOSAL
WTP FILTER REHAB PROJECT
20-200-01**

A. INTRODUCTION

In accordance with the provisions of Chapter 2269 of the Texas Government Code, and the City's policies and procedures, the City is requesting submissions to contract with an individual(s) or business(es) with considerable experience in providing General Contractor construction services of this solicitation. The responses shall be submitted to the City in a sealed submission.

The awarded individual(s) or business(es) shall possess a proven track record of using effective approaches to providing construction services that represent the most qualified to their clients. The awarded individual(s) or business(es) shall have the ability to accomplish all aspects of the requested services. The awarded individual(s) or business(es) should be able to provide effective methods to deal with challenges and provide effective solutions.

The City is using a Competitive Sealed Proposal (CSP) solicitation. This process includes the issuance of a single solicitation that will allow the City to determine the best value combination of experience, quality, qualifications, and bid price.

1. GUIDING PRINCIPALS

The City of Commerce is working together to build and maintain a community of the highest quality for current and future generations.

The City's Core Values:

- Responsive: Meeting Citizen Needs in a Timely Manner
- Effective: Meeting Citizen Needs Completely, the First Time
- Accountable: Measuring Performance to Improve & Repeat Results

B. PROJECT INFORMATION

1. OBJECTIVE

The City desires to select a General Contractor to provide construction services for **the WTP Filter Rehab Project**.

This RFP invites respondents to submit a Proposal to be selected as the General Contractor for the Project. Selection will be determined based upon the Proposal that the City determines to provide the best value according to the evaluation criteria set forth in Section D.3 of this RFP.

2. PROJECT BACKGROUND

The City of Commerce has an existing Water Treatment Plant (WTP) that has not aged well. The plant utilizes a combination of six (6) water filter units to achieve a rated capacity of 3.0 million gallons per day (GPD). Four of these existing filters are non-operational which negatively impacts the City's ability to produce water for its retail and wholesale water customers.

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The intent of this project is to provide for the rehabilitation of all six (6) filter units to restore the rated treatment capacity of the plant. Rehabilitation will include replacing filter cell components; lining each filter cell with steel liner with paint and primer to repair leaks; installing bracing rods to stiffen the cell walls; replacing valves for the air scour, backwash, influent, effluent, raw water, clarifier drain, and blower piping; replacing pneumatic actuators; installing a new blower and compressor; replacing chlorine ton scales; and electrical and controls work.

Additionally, in response to the severe winter storm of 2021, the WTP does not have an on-site generator to provide emergency back-up power for the operation of the plant. This project includes work to provide for permanent, on-site back-up power generation.

3. SCOPE OF WORK

The successful bidder will be required to provide all pre-construction services, project management services, construction services, and close-out and commissioning services to deliver the project in accordance with the construction documents and contract requirements.

3.1 PRE-CONSTRUCTION & PROJECT MANAGEMENT SERVICES

For Pre-Construction & Project Management Services, the Respondent will:

1. Participate in one on-site pre-construction meeting.
2. Develop a detailed Project Schedule.
3. Perform Document Management and Controls through system of the contractor's preference.
4. Participate in monthly scheduled project status meetings with the City.
5. Submit monthly invoices and status reports documenting project budget and schedule updates. Budget, risk and schedule mitigation measures shall be reported, as necessary.
6. Identify project permitting requirements and initiate certain permitting activities.

3.2 CONSTRUCTION SERVICES

For Construction Services, the Respondent will:

1. Continue Project Management activities.
2. Complete the permitting.
3. Procure subcontractors.
4. Procure equipment.
5. Construct the Project.
6. Maintain site security.
7. Conduct startup, commissioning and performance/acceptance testing.
8. Provide operator training.
9. Provide warranty coverage.

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10. Prepare O&M Manuals that will include Standard Operating Procedures and Emergency Response Procedures.
11. Work with the project Engineer to provide “As-Built” documents to include one set of hard copies, PDF files and AutoCAD files.
12. Compile and provide a critical spare parts list to keep on-hand.

4. **RESERVED**

5. **RESERVED**

C. PROCUREMENT OVERVIEW

1. MINIMUM REQUIREMENTS

The following minimum requirements must be demonstrated for the submission to be **considered responsive** to the City. Any submission received, which is determined to not meet these mandatory requirements may be immediately disqualified and rejected as non-responsive.

- Acceptable bid bond in an amount not less than 5% of the total amount of the bid. All submissions received without a bid bond will be rejected and considered non-responsive. Additional information regarding bond requirements is described in Section F.13.A.

2. SCHEDULE OF EVENTS

Following is a list of **projected dates** with respect to this Project

Issuance of RFP:	03/18/22
Pre-Submittal Conference	04/01/22
Deadline for Submission of Responses:	04/14/22 before 2:00 PM, CST
Contract Negotiation:	04/18 – 04/29/22
Contract Award:	05/03/22
Project Completion Date:	TBD

The City reserves the right to change the dates indicated above.

3. CONTRACT TERM

The Contract shall commence upon the issuance of a Notice to Proceed by the City and shall automatically expire upon completion of the work or receipt of the materials, and acceptance by the City. The final project schedule will be requested and negotiated with the selected Respondent as part of the construction contract.

4. ADDENDA AND MODIFICATIONS

Any changes, additions, or clarifications to the RFP are made by amendments (addenda) and will be posted at the City's website (www.commercetx.org). Any Respondent in doubt as to the true meaning of any part of the RFP or other documents may request an interpretation from the Purchasing Department. At the request of the Respondent, or in the event the Purchasing Department deems the interpretation to be substantive, the interpretation will be made by written addendum issued by the Purchasing Department. Such addendum will be attached to the original RFP at the City's website and will become part of the RFP package having the same binding effect as provisions of the original RFP. It shall be the Respondent(s)'s responsibility to ensure that they have received all Addenda in respect to this RFP. Furthermore, Respondents are advised that they must recognize, comply with each Addendum. Respondent(s)'s signature on Addenda shall be interpreted as the Respondent's recognition and compliance to official changes as outlined by the City and as such are made part of the original RFP documents. Failure of any Respondent to receive any such addendum or interpretation shall not relieve such Respondent from its terms and requirements. Addenda are available online at the City's website. No verbal explanations or interpretations will be binding. The City does not assume responsibility for the receipt of any addendum sent to Respondents.

D. SELECTION PROCESS

1. SELECTION

The City will select a General Contractor for services specified using a Competitive Sealed Proposal (CSP) process.

Following the submittal of Proposals, the City may elect to conduct interviews with selected Respondents. The City's selection committee will evaluate each of the Proposals received. Proposals will be scored based on a numerical scoring system for the responses to the evaluation criteria outlined in Section D.3. The City will then select the highest-ranking Respondent and begin negotiations. Upon successful negotiations, the City will recommend award of the DB Contract to the City Council.

If the City determines that it is unable to reach a contract satisfactory to the City with selected Respondent, then the City will end negotiations with that Respondent and proceed to the next Respondent in order of selection ranking and continue this process until a contract is reached or the City has rejected all proposals. The City will not disclose information from one Respondent's proposal to another Respondent in conducting such discussion. The City reserves the right to award the contract for all or any portion of the Project; or reject any and all proposals if deemed to be in the best interest of the City. The City also reserves the right to re-solicit for proposals if deemed to be in the best interest of the City, and to temporarily or permanently abandon the procurement.

2. CONTRACT INFORMATION

The Sample Construction Contract in Exhibit 1 will be utilized as the basis of the final contract award.

3. EVALUATION CRITERIA

In accordance with Statute 2269 of the Texas Government Code, the City may establish evaluation criteria to establish the best value combination of experience, quality, qualifications, and bid price. Proposals submitted by the submitters shall be evaluated by the City selection committee based on the following criteria and weighting:

	Points
Key Personnel	10
Similar Project Experience	25
Key Equipment Quality	5
Project Schedule	5
Local Experience	5
Bid Price	50
TOTAL Score	100

3.1 SUBMITTAL SECTIONS

3.1.1 KEY PERSONNEL (10 POINTS)

Provide a brief resume or summary of the years of experience, license or degrees, and relevant project experience for key members of the construction team and subcontractors. At a minimum the submitter must include the owner/principal, the project manager, and the construction superintendent.

3.1.2 SIMILAR PROJECT EXPERIENCE (25 POINTS)

In this section the Respondent shall provide a summary of any projects within the past ten (10) years that are similar in scope, size, or budget to this project. For each project listed, there should be:

- Project Description
- Project Completion Date
- Project Budget and Final Cost
- Owner contact information for reference checks

3.1.3 KEY EQUIPMENT QUALITY

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In order to receive maximum points for this section, the bidder must indicate that all equipment and materials within the bid meets the plans and specifications provided in the construction plans, or that the proposed alternate has been approved by the design engineer.

3.1.4 PROJECT SCHEDULE

In this section the Respondent shall provide a schedule showing dates for each major task associated with this Project. The detailed schedule should include at a minimum the following items:

1. Proposed schedule for submittals.
2. Key equipment delivery milestones.
3. Major construction milestones including start-up, commissioning and training

The Respondent shall assume the Notice to Proceed will be issued on May 9, 2022 and all construction must be completed by a date to be negotiated as part of the contract.

The detailed schedule may be presented on 11” by 17” pages and will count as one page per sheet.

3.1.5 LOCAL CONTRACTOR EXPERIENCE

The City of Commerce desires to recognize and promote the use of local contractors, subcontractors, and materials suppliers. To receive the points within this section, the bidder must demonstrate that their bid includes the use of materials, equipment, or services from a local company that has a place of business within the Commerce zip code of 75428.

4. COST PROPOSAL / BID PRICE

The City of Commerce is sensitive to the overall cost of this project, and best value determination must include the cost of the work. Bidders must submit their bid price with the Bid Form(s) provided within the contract documents.

Scoring for this section will be determined as a ratio. The lowest qualified bid will receive the maximum points for this section. All other bidders will receive a prorated point value based on how close they are to the lowest qualified bid.

For example, if the lowest qualified bid is \$100 and the next bid is \$105. The second bidder will receive 47.5 of the 50 points available. (5% point deduction)

E. SUBMITTING A RESPONSE

1. SUBMITTAL INSTRUCTIONS

Respondent shall submit one (1) original signed document. The original shall be clearly marked. In addition, the submittal shall be provided electronically on a USB drive. The complete proposals must be received, in a sealed envelope, at the City of Commerce City Hall no later than published date and time on the cover sheet at the address below. Submittals sent by facsimile or email will not be accepted. Any submittal or modification received after this time shall not be considered, and will be returned, unopened to the Respondent. Respondents should strive for early submission to avoid the possibility of rejection for late arrival.

Address:
City of Commerce
Attn: Purchasing Solicitation # 20-200-01
1119 Alamo St
Commerce, Texas 75428

Each Respondent is responsible for taking the necessary steps to ensure their submission is received by the date and time noted herein. The City is not responsible for missing, lost or late mail or any mail delays, internal or external, that may result in the submission arriving after the set time.

All submissions shall be opened at the time of the bid opening indicated within this RFP. Bidders and bid price will be read aloud at the time of the bid opening.

2. SUBMISSION FORMAT

Each submittal shall be typewritten, single spaced and submitted on 8.5" by 11" white paper, with a maximum of five (5) 11" by 17" pages. Font size shall be no less than 12-point type for all items and may be in full color. All pages shall be numbered and should be printed two-sided. Websites or URLs shall not be submitted in lieu of the printed submittal or electronic submission.

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Each submittal must include the sections and attachments in the sequence listed below, and each section and attachment must be indexed and divided by tabs and indexed in a Table of Contents page. The electronic submittal should be submitted in Adobe PDF as one file and bookmarked with the sections listed below.

Submissions shall be organized as follows:

A. PROPOSAL:

1. COVER SHEET: The cover sheet shall include the solicitation number and name, firm name, address, contact phone, fax, website and email address.
2. BID BOND: Acceptable bid bond in an amount not less than 5% of the Bidder's maximum Bid price. All submissions received without a bid bond will be rejected and considered non-responsive.
3. TABLE OF CONTENTS: Respondent will prepare and include a Table of Contents that includes each section of the proposal, as well as the corresponding page number.
4. KEY PERSONNEL: Provide a response addressing all items requested, as indicated in Section D.3.1.1, Evaluation Criteria.
5. SIMILAR PROJECT EXPERIENCE: Provide a response addressing all items requested, as indicated in Section D.3.1.2, Evaluation Criteria.
6. KEY EQUIPMENT QUALITY: Provide a response addressing all items requested, as indicated in Section D.3.1.3, Evaluation Criteria.
7. PROJECT SCHEDULE: Provide a response addressing all items requested, as indicated in Section D.3.1.4, Evaluation Criteria.
8. LOCAL CONTRACTOR EXPERIENCE: Provide a response addressing all items requested, as indicated in Section D.3.1.5, Evaluation Criteria.
9. BID PROPOSAL: Provide a completed Bid Form as provided within the contract documents.
10. SOLICITATION PACKET ATTACHMENTS: This section includes the following forms:
 - Attachment A - Acknowledgement
 - Any attachments required in the contract documents.

3. PREPARATION OF RESPONSE

Responses **MUST** give full firm name and address of Respondent, and be manually signed in the Acknowledgment, Attachment A. Failure to do so will disqualify your submittal. The person signing the response must show title or **AUTHORITY TO BIND FIRM IN A CONTRACT**. Firm name and authorized signature must appear on each page that calls for this information. The legal status of the Respondent whether corporation, partnership, or individual, shall also be stated in the submittal. A corporation shall execute the submittal by its duly authorized officers in accordance with its corporate by-laws and shall also list the state in which it is incorporated. Respondent shall give full names and business addresses of all partners proposed to be utilized on this Project. All partners shall execute the submittal. Partnership and Individual Respondent shall state in the submittal the names and addresses of all persons with a vested interest therein. The place of residence of each Respondent, or the office address in the case of a firm or company, with county and state and telephone number, shall be given after the signature. Any costs associated with assembling this submittal will be at the sole expense of the Respondent.

4. WITHDRAWAL

Responses may be withdrawn prior to the due date for submission. Written notice of withdrawal shall be provided to the Purchasing Department. No response may be withdrawn after opening time without reasonable exception in writing and only after approval by the City.

5. TIME ALLOWED FOR ACTION TAKEN

The City may hold responses 45 days after submittal deadline without taking action. Respondents are required to hold their Responses, including pricing, firm for same period of time.

6. ALTERATIONS/AMENDMENTS TO RESPONSES

Responses **CANNOT** be altered or amended after the opening deadline. Alterations made before opening time must be initialed by Respondent guaranteeing authenticity.

7. INTERPRETATIONS

Any questions concerning the requirements or scope of work with regards to this RFP shall be directed to the designated individuals as outlined herein. Such interpretations, which may affect the eventual outcome of this solicitation for Responses, shall be furnished in writing to all prospective Respondents via Addendum. No interpretation shall be considered binding unless provided in writing by the City in accordance with paragraph entitled “**Addenda and Modifications.**”

8. RIGHT TO REJECT/ AWARD

The City reserves the right to reject any or all responses, to waive any or all formalities or technicalities, and to make such awards of contract(s) as may be deemed to be in the best interest and most advantageous to the City, considering the relative importance and other evaluation factors specified herein.

9. RESTRICTIONS ON COMMUNICATION

Respondent(s) are prohibited from communicating with: 1) The City Council and the City staff regarding the RFP or submittals from the time the RFP has been released until the contract is posted as a City Council agenda item; and 2) the City employees and Owner’s Representative from the time the RFP has been released until the contract is awarded. These restrictions extend to “thank you” letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFP and/or submittal by Respondent. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent’s submittal from consideration.

Exceptions to the restrictions on communication with the City employees include:

- Respondents may ask verbal questions concerning this RFP at the Pre-Submittal Conference (if applicable) or submit clarification requests via email to the point of contact below.
- Respondents may provide responses to questions asked of them by the Purchasing Department after submittals are received and opened. The Purchasing Department may request clarification to assist in evaluating Respondent’s Response. The information provided is not intended to change the Response in any fashion. Such additional information must be provided within two (2) business days from the City’s request. Respondents may also respond to requests by the Purchasing Department for best and final offers, which do allow Respondents to change their response. Requests for best and final offers will be clearly designated as such.

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Respondents shall direct all inquiries and communications concerning this solicitation to the Point of Contact(s) listed below:

Howdy Lisenbee
City Manager
(903)886-1130
howdy.lisenbee@commercetx.org

10. INVITATION FOR RESPONSES PREPARATION COSTS

Issuance of this RFP does not commit the City, in any way, to pay any costs incurred in the preparation and submission of a response. All costs related to the preparation and submission of this RFP shall be borne by the Respondent.

11. ANTI-LOBBYING PROVISION

During the period between RFP submission date and the contract award, Respondents, including their agents and representatives, shall not directly discuss or promote their response with any member of the City Council or City staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations. Violation of this provision may result in the rejection of the Respondent's response and disqualification from future consideration of a similar solicitations.

12. CONFIDENTIAL INFORMATION & SECURITY

Any information deemed to be confidential by the Respondent should be clearly annotated on the pages where confidential information is contained. The City cannot guarantee that it will not be required to disclose all or part of any public record under Texas Public Information Act, since information deemed to be confidential by the responder may not be confidential under Texas Law, or pursuant to a Court order.

Should the successful Respondent be awarded a contract and become the holder of, and have access to, confidential information, (in the process of fulfilling its responsibilities in connection with the contract), the successful Respondent agrees that it shall keep such information confidential and will comply fully with the laws and regulations of the State of Texas, ordinances and regulations of the City, and any applicable federal laws and regulations relating to confidentiality.

13. ACKNOWLEDGEMENT

Submit a signed Attachment A as an acknowledgement in by authorized agent of the responding firm.

14. DEVIATION FROM SPECIFICATION/ REQUIREMENTS

Please read the requirements thoroughly and be sure that your response complies with all requirements/specifications noted. If no exceptions are noted, and you are the successful Respondent, the City will require that the good/service(s) be provided as specified.

15. CONTRACT

The successful Respondent will be required to execute a contract using the City's standard terms and conditions. A sample of the General Construction Contract is included in the contract documents.

F. TERMS AND CONDITIONS

1. LIQUIDATED DAMAGES AND INCENTIVES

The City and the awarded contractor recognize that time is of the essence with respect to the Substantial Completion and Final Completion dates for the Project. Failure to achieve the applicable dates specified in the contract, plus any extensions thereof allowed in accordance with the contract will result in the assessment of delay liquidated damages or as otherwise agreed upon by the Parties in any amendment ("Amendment"). They also recognize the delays, expense, and difficulties involved in quantifying the actual loss suffered by the City if the Work is not substantially complete on Time. Accordingly, Liquidated Damages will be negotiated as part of the contract.

2. SUBSTITUTIONS/CANCELLATIONS

No substitutions or cancellations are permitted without written approval of the City.

3. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful Respondent as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful Respondent under this contract and that the successful Respondent has no authority to bind the City.

4. ASSIGNMENT

Respondents are advised that the City shall not allow the successful Respondent to sell, assign, transfer, or convey any part of any contract resulting from this response in whole or in part, to a third party without the written approval of the City.

5. INDEMNIFICATION CLAUSE

THE CONSULTANT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY DAMAGE, LIABILITY OR COST (INCLUDING REASONABLE ATTORNEYS' FEES AND COST OF DEFENSE) TO THE EXTENT CAUSED BY THE CONSULTANT NEGLIGENT ACTS, ERRORS OR OMISSIONS IN THE PERFORMANCE OF ITS SERVICES UNDER THIS AGREEMENT AND THOSE OF HIS OR HER SUBCONTRACTORS OR ANYONE FOR WHOM THE CONSULTANT IS LEGALLY LIABLE.

6. FORCE MAJEURE

If either party shall be wholly or partially prevented from the performance of any contractual obligation or duty by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of Force Majeure shall rest solely with the City.

7. JURISDICTION

Contract(s) executed as part of this solicitation shall be subject to and governed under the laws of the State of Texas. Any and all obligations and payments are due and payable in Hunt County, Texas.

8. VENUE

The parties agree that venue for purposes of any and all lawsuits, cause of action, arbitration, and/or any other dispute(s) shall be in Hunt County, Texas.

9. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS

The Respondent shall comply with all State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

10. RESPONDENT'S EMPLOYEES

Neither the Respondent nor his/her employees engaged in fulfilling the terms and conditions of any awarded contract shall be employees of the City. The method and manner

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of performance of such undertakings shall be under the exclusive control of the Respondent on contract. The City shall have the right of inspection of said undertakings at any time.

11. VERBAL THREATS

Any threats made to any employee of the City, be it verbal or written, to discontinue the providing of item/material/services for whatever reason and/or reasons shall be considered a breach of contract and the City may immediately sever the contract with the successful Respondent.

12. EQUAL EMPLOYMENT OPPORTUNITY

The awarded contractor will not discriminate against any employee or applicant for employment because of race, religion, ethnicity, gender, age, national origin, disability, veterans' status or any other status or condition protected by applicable federal and state laws. The awarded contractor will take affirmative action to ensure that applicants are employees and that employees are treated during employment, without regard to their race, religion, ethnicity, gender, age, national origin, disability, veterans' status or any other status or condition protected by applicable federal and state laws.

13. BONDS

A. BID BOND

Respondent must submit a bid bond with a raised seal, in a form acceptable to the City, made payable to the City of Commerce, executed by a corporate surety acceptable to the City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of the Treasury's Listing of Approved Sureties (Dept Circular 570) in the amount of 5% of the total amount of the Bidder's maximum Bid price. The Bid Bond shall be valid through Phase 1. The Bid Bond must be accompanied by an original signed and notarized Power-of-Attorney bearing the seal of the issuing surety company and reflecting that the signatory to the bond is a designated Attorney-in-Fact. **Any proposals received without a Bid Bond will be disqualified.**

Should the Respondent to whom the Contract is awarded, refuse or neglect to execute the Contract and furnish the required bonds at Phase 2, the bid guaranty shall become the property of the City, not as a penalty, but as liquidated damages, or the City may pursue any other action allowed by law.

B. PERFORMANCE BOND

The awarded contractor shall provide a performance bond made payable to the City of Commerce, executed by a corporate surety acceptable to the City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury's Listing of Approved Sureties (Dept. Circular 570) in the amount of **the cost of the entire Project**, (except for design services as limited by Sec. 2269.311, Texas Government Code).

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Said bond shall further provide coverage for all damages or losses resulting from the principal's default. Said bond shall further guarantee the principal's performance of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253. This bond must be executed and delivered to the City prior to commencement of work under this contract. Any repairs exceeding the bond's value must be approved separately, and Contractor must supply a supplemental performance bond, meeting the same requirements herein, to cover the incremental increase between this bond's value and the cost of the repair.

C. PAYMENT BOND

The awarded contractor shall provide a payment bond as a security for all persons supplying labor and material in the performance of the Project completion. Bond shall be made payable to the City of Commerce, executed by a corporate surety acceptable to the City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury's Listing of Approved Sureties (Dept. Circular 570) in the amount of **the cost of the entire Project**, (except for design services as limited by Sec. 2269.311, Texas Government Code). Said bond shall further provide coverage for all damages or losses resulting from the principal's default. Said bond shall further guarantee the principal's payment of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, Chapter 2253. This bond must be executed and delivered to the City prior to commencement of work under this contract. Any repairs exceeding the bond's value must be approved separately, and Contractor must supply a supplemental bond, meeting the same requirements herein, to cover the incremental increase between this bond's value and the cost of the repair.

D. MAINTENANCE BOND

The awarded contractor may be asked to provide a maintenance bond to guarantee Contractor will resolve all maintenance incidents on the Project for a 12-month period. Maintenance bond shall be made payable to the City of Commerce, executed by a corporate surety acceptable to the City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury's Listing of Approved Sureties (Dept. Circular 570) in the amount of **the cost of the entire Project**, (except for design services as limited by Sec. 2269.311, Texas Government Code). Said bond shall further provide coverage for all damages or losses resulting from the principal's default. Said bond shall further guarantee the principal's performance of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253. This bond must be executed and delivered to the City prior to commencement of work under this contract. Any repairs exceeding the bond's value must be approved

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separately, and Contractor must supply a supplemental bond, meeting the same requirements herein, to cover the incremental increase between this bond's value and the cost of the repair.

14. RETAINAGE

In accordance with the Government Code Section 2252.032, The City shall retain 5% of each payment request until final completion and acceptance of the contract work.

15. TAX EXEMPTION

The City is a political subdivision of the State of Texas, which is the reason for this claim of exemption from the Sales Tax. The City's tax-exempt number is 74-6011311.

The Contractor performing this contract may purchase all materials and supplies consumed in the performance of this contract by issuing to his retailer an exempt certificate in lieu of the tax, said exemption certificate complying with State Comptroller's Ruling No. 95-9.07. Any such exemption certificate issued by the Contractor in lieu of the tax shall be subject to the provisions of the State Comptroller's Ruling No. 95-0.09 as amended to be effective October 2, 1968.

The Contractor will be liable for payment of the Limited Sales and Use Tax if the Contractor uses the goods and services in some other manner for some other use than the reason listed above and shall pay the tax based on the price paid for the goods and services.

The City will furnish the Contractor with a Tax Exemption Certificate. It is the awarded contractor's responsibility to take all necessary action to establish tax exemption in accordance with the Texas Tax Code. The awarded contractor is totally responsible for maintaining auditable records to track tax exempt materials and tangible equipment.

16. PREVAILING WAGE RATES

The Provisions of Chapter 2258 of the Texas Government Code, and the "Wage and Labor Standard Provisions" expressly are made a part of the Contract. In accordance therewith, a schedule of the general prevailing rate of per diem wages in this locality for each craft or type of worker needed to perform the Contract shall be included in the Project bid package prior to the bidding of the Project. The establishment of prevailing wage rates, pursuant to Chapter 2258 of the Texas Government Code, shall not be construed to relieve Contractor from its obligation under any Federal or State Law, regarding the wages to be paid to or hours worked by laborers, workmen or mechanics, insofar as applicable to the work to be performed hereunder. Contractor, in the execution of this Project, agrees it shall not discriminate in its employment practices against any person because of race, color, creed, sex, or origin. Contractor agrees it will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, creed, national origin, sex, age, handicap or political belief or affiliation. This Contract

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provision shall be included in its entirety in any subcontract agreement entered into by the Contractor or any Subcontractor employed on the project.

17. CERTIFICATE OF INTERESTED PARTIES

Effective January 1, 2016, pursuant to House Bill 1295 passed by the 84th Texas Legislature (Section 2252.908, Texas Government Code, as amended) and formal rules released by the Texas Ethics Commission (TEC), all contracts with private business entities requiring approval by the City Council, and/or with the amount of the contract being in excess of \$1,000,000, will require the on-line completion of Form 1295 "Certificate of Interested Parties." Form 1295 is also required for any and all contract amendments, extensions or renewals. The awarded Respondent(s) will be required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Please visit the State of Texas Ethics Commission website, https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and <https://www.ethics.state.tx.us/tec/1295-Info.htm> for more information.

IF YOU HAVE ANY QUESTIONS ABOUT COMPLIANCE, PLEASE CONSULT YOUR OWN LEGAL COUNSEL. COMPLIANCE IS THE INDIVIDUAL RESPONSIBILITY OF EACH PERSON OR AGENT OF A PERSON WHO IS SUBJECT TO THE FILING REQUIREMENT.

18. PUBLIC INFORMATION REQUESTS

This section applies to contracts executed by the City that have a stated expenditure of at least \$1 million for the purchase of goods or services by the City, or that result in an expenditure of at least \$1 million for the purchase of goods or services in a fiscal year.

The contractor shall provide contracting information that is in its possession to the City in the event that the City receives a public information request for the information, subject to the exceptions provided under the Texas Public Information Act, Chapter 552 of the Government Code. The City must inform the contractor of the request for information within three (3) business days of receipt from the requestor. The contractor shall provide the information within ten (10) business days. The contractor shall provide written notice of an exception request, in accordance with Government Code Chapter 552.

The requirements of Subchapter J, Chapter 552, Government Code apply to this solicitation/ bid/ contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter. In addition, any contractor or vendor that does not comply shall be placed on the City's debarred vendor list.

19. NO BOYCOTTING ISRAEL VERIFICATION

Contractor agrees that it does not boycott Israel and will not do so during the term of this Agreement. This provision is in compliance with §2270.001 of the Texas Government Code. The City agrees to comply with the United States and Texas Constitutions in consideration of whether to enforce this provision.

20. NON-TERRORIST/IRAN/SUDAN CERTIFICATION

The City may not enter into a contract with a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations. The awarded contractor will certify their firm is not listed on the website of the Comptroller of the State of Texas concerning companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. And further certifies that should their firm enter into a contract with a firm listed on the on the Comptrollers' website which does business with Iran, Sudan, or any Foreign Terrorist Organization, they will immediately notify the City.

ATTACHMENTS

Attachment A is to be returned with the Proposal.

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ATTACHMENT A-ACKNOWLEDGMENT

The undersigned agrees this submission becomes the property of the City of Commerce (City) after the official opening.

I understand that my submission may be treated as a public record under the Texas Public Information Act. I have marked pages that I consider to be confidential as "confidential." I further **INDEMNIFY AND HOLD HARMLESS** the City for the release of any portion of my information, as may be required by law.

The undersigned affirms he has familiarized himself with the specification, drawings, exhibits and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a response.

The undersigned agrees, if this submission is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this submission will be 120 calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this submission has not been prepared in collusion with any other Respondent, nor any employee of the City, and that the contents of this submission have not been communicated to any other Respondent or to any employee of the City prior to the acceptance of this submission.

Respondent hereby assigns to the City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications, all exhibits and attachments contained in this solicitation package.

The undersigned agrees that the solicitation package posted on the website are the official specifications and shall not alter the electronic copy of the solicitation package, without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the City Purchasing Website at: www.commercetx.org to ensure they have downloaded and signed all addendum(s) required for submission with their response.

I certify that I have made no willful misrepresentations in this submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this submission will be investigated, with my full permission, and that any misrepresentations or omissions may cause my submission to be rejected.

In submitting a response to the City, the responder offers and agrees that if the response is accepted, the responder will convey, sell, assign or transfer to the City all rights, titles and interest in and to all causes to action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Texas for price fixing relating to the particular commodities or services purchased or acquired by the City. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the responder. Acknowledge receipt of following addenda to the solicitation:

Addendum No 1 Dated _____
Addendum No 2 Dated _____
Addendum No 3 Dated _____

Received _____
Received _____
Received _____

NAME AND ADDRESS OF COMPANY:

Tel. No. _____

AUTHORIZED REPRESENTATIVE:

Signature _____

Date _____

Name _____

Title _____

Email. _____