



**2022 REQUEST FOR
QUALIFICATIONS
FOR THE
DEPARTMENT OF PARKS AND
RECREATION
CAPITAL PROGRAM**

November 5, 2021



NOTICE OF UPCOMING RFQ OPPORTUNITY

CITY OF ARLINGTON 2022 REQUEST FOR QUALIFICATIONS

The 2022 Request for Qualifications (RFQ) for engineering and professional services related to the City's Capital Improvements Programs will be released on **November 5, 2021**.

The City will conduct a Public Meeting on Friday, November 12, 2021, 9:00 am – 10:00 am

**Council Chambers
101 W Abram Street
Arlington, Texas**

The intent of the public meeting is to explain the RFQ process, the contents of your submittal and the City's new MWBE policy. This meeting is not mandatory but is highly recommended.

Questions submitted to the City prior to **November 10th** may be answered during the meeting. Please direct questions to the specific departments you plan to submit to.

<u>Public Works & Transportation</u>	<u>Water Utilities</u>	<u>Parks</u>
Amy Powell	Ashley Brown	Chris Hayden
amy.powell@arlingtontx.gov	ashley.brown@arlingtontx.gov	chris.hayden@arlingtontx.gov

The City of Arlington, Parks and Recreation Department desires to obtain your firm's contact information and qualifications to assist us in making informed decisions when selecting consultants for specific capital improvements projects.

Please follow the instructions in this Request for Qualification (RFQ) for submittals. Submittals received after the stated time and date shall be rejected as non-responsive. Submittals that do not meet the requirements outlined in this RFQ may, at the City's discretion, be deemed non-responsive. This is an annual RFQ for design of Capital Program projects and consultants that do not submit will not be considered for potential projects until the RFQ for the next capital budget year. However, when necessary, due to the nature of a project, we may issue project specific Requests for Qualifications at any time.

1.0 SCHEDULE

SUBMITTALS OF YOUR FIRM'S INTEREST AND QUALIFICATIONS SHALL BE RECEIVED NO LATER THAN 4:30 P.M., December 10, 2021.

Any questions related to the proposal shall be submitted by email to Chris Hayden, at chris.hayden@arlingtontx.gov no later than noon, November 19, 2021.

Submit six (3) copies and one USB Flash Drive containing a single .pdf file to the address below:

**City of Arlington
Department of Parks and Recreation
Parks Administration Building
717 W. Main Street
Arlington, TX 76013
Attn: Scott Fairman**

Note: Absolutely no faxed or emailed qualifications will be accepted.

2.0 GENERAL INFORMATION

The City of Arlington reserves the right to accept or reject any or all qualifications and to accept only those qualifications that are in the best interest of the City.

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing responses to this request.

The City reserves the right to retain all responses and to use any ideas included in a response regardless of whether that response is selected. Submission of a response indicates acceptance by the firm of the conditions contained in this request for qualifications (RFQ), unless clearly and specifically noted in the response and confirmed in the contract between the City and the firm selected.

Each responding firm certifies by submission of their qualifications that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal, state, or local department or agency.

Respondents must possess the required professional license(s) to practice in Texas.

3.0 PROJECT CATEGORY

Professional consultant services implemented by the Department of Parks and Recreation generally fall into the project categories below:

Category Number	Anticipated number of projects	Category and Description
1	1	Park Improvements/Renovations Generally includes: <ul style="list-style-type: none">○ Pavilions○ Playgrounds○ Hike/Bike Trails○ Sports Courts○ Spraygrounds○ Picnic stations○ Exercise Stations○ Parking○ Fencing○ Sports fields○ Irrigation
2	1	Roadway, Parking & Drainage Generally includes: <ul style="list-style-type: none">○ Roadway/parking lot design with associated grading and drainage facilities○ Bridge design○ Dredging○ Creek Restoration
3	1	Linear Park Trail Development Generally includes: <ul style="list-style-type: none">○ Development and renovation of concrete hike/bike trail and associated infrastructure

4.0 PROPOSAL SUBMITTAL REQUIREMENTS

Deviation from the submittal requirements and directions in this section will result in disqualification.

If you have more than one office in the region, please coordinate one response and provide one point of contact for each category of work. If a team of firms is proposed for the project, the team must be structured in a manner where one firm is the prime (contracting party) and the other(s) will be a sub-contractor to the prime.

The response to this RFQ should be as concise as possible while adhering to the format and information requirements described below.

- The minimum font size shall be 10 pt. on 8 ½ x 11 size paper;

- Only spiral or comb binding will be accepted;
- Dividers with tabs separating each Project Category.

The response to this RFQ shall be organized in the following manner:

GENERAL INFORMATION

- Cover letter with general prime firm information, including number of years in business and size of firm (1 page)
- Complete and attach the Consultant Contact Sheet (attached, 1 page).
- Include and complete an MWBE Plan for each category for which you wish to be considered.
- Include MWBE Certificates for each MWBE subconsultant to be used.

PROJECT CATEGORIES

There is no limitation to the number of categories you can submit. Provide a separate divider and the following information for each category for which you wish to be considered:

Team Organization

The City of Arlington expects the team listed in the proposal to perform the work on the project. The team organization shall:

- Be no more than two (3) pages in length
- Contain the following information:
 - Organizational chart that includes all key personnel for potential project elements (project manager, design team leads, QA/QC personnel).
 - Qualifications of all key personnel including:
 - Certifications, education, and a brief summary of experience
 - Short list of project experience related to the category
 - Potential subconsultant should be included in the organization chart and their qualifications should be included in this section. Note if subconsultants are MWBE's.

Project Experience

Provide up to three (3) recent projects that illustrate the firm's ability to perform services required for this category. The projects shall be directly associated with the key personnel. Each project description shall:

- Be no more than one (1) page in length
- Be completed within the last five (5) years
- Be for a municipal or other governmental agency
- Contain the following information:
 - Project name, scope, location, cost, and year completed
 - Client name, phone number, and point of contact
 - If work was completed as a sub to another consultant, also include main consultant name, phone number, and point of contact
 - Roles of Project Manager and key personnel
 - One (1) signed and sealed, 11" x 17" plan sheet related to the category for each recent project example, if project included preparation of construction plans.

Supplemental Information

Provide additional information that demonstrates the firm's available resources, specialized experience, or other information. Include approach to planning, organizing, and project management, including communication procedures, quality control, and other similar factors. Supplemental information shall be no more than three (3) pages in length.

5.0 SELECTION AND NEGOTIATION

A staff committee will evaluate the responses. During the evaluation process, the committee reserves the right, where it may serve the City's best interest, to request additional information or clarification from responders, or to allow corrections of errors or omissions. Demonstration of the proposer's ability to meet Minority/Women Business Enterprise utilization goals will be considered in the evaluation process.

The staff committee will evaluate and select a pool of firms for each category. The City will then select a consultant from the pool and work in good faith with the successful consultant to negotiate an appropriate scope of work and fee for the specific project. Timing of contract negotiations will be dependent upon project schedule. If a satisfactory fee cannot be successfully negotiated with the selected consultant within twenty-one (21) calendar days of notice of selection, the City may move to another consultant and negotiate a contract to perform the work.

Lobbying of selection committee members, City staff or City Council Members will not be permitted or tolerated during the RFQ process.

6.0 MINORITY/WOMAN BUSINESS ENTERPRISE (MWBE) POLICY

As of March 30, 2021, the City of Arlington implemented a Minority and/or Woman-Owned Business Enterprise (MWBE) program whereby minority/woman-owned businesses are included in the City's procurement process for all basic goods and services, construction, and professional services. The City and the Office of Business Diversity will ensure MWBE companies are provided an equal opportunity to compete for all City procurements.

As a city council initiative, all proposers are required to utilize certified MWBE companies and/or persons for a minimum of 30% of the total project cost. With the adoption of a MWBE Program, all proposals will be reviewed to see whether said proposer(s) has met the spirit of the city's efforts for MWBE inclusion. During the negotiation phase, the Office of Business Diversity will reevaluate the MWBE project specific goal and review/request the necessary documentation with the recommended proposer(s).

All proposers must submit a MWBE Utilization Plan (see attached) along with their subconsultant's MWBE certification, with their proposal, identifying the project's subconsultants and the estimated percentage of work performed by each subconsultant.

Following the formal notice to proceed, the awarded proposer will be required to report MWBE expenditures into BG2Now. To access the system, go to <https://arlingtontx.diversitycompliance.com> in your internet browser address line. If you have never utilized the Supplier Diversity Management System, you can sign up for free webinar trainings at <https://arlingtontx.diversitycompliance.com> and click on System Training.

7.0 CONSULTANT SERVICES CONTRACT

If selected, the consultant shall agree with the terms set forth in the City's Consultant Services Contract,

which is appended at the end of this RFQ for reference. The consultant will need to take special note of the Insurance Requirements in the Consultant Services Contract. It is highly recommended that the consultant review the Consultant Services Contract prior to submittal of the RFQ. Revisions or deviations from the City's Consultant Services Contract may not be entertained after selection.

8.0 RIGHT TO TERMINATE

The City of Arlington reserves the right to terminate this process at any time. No guarantee is expressed or implied that obligates the City to contract the consultant services for the proposed projects. The City will not be liable for any costs associated with responding to this RFQ, for the firm's participation in the presentation, or any costs associated with negotiations.

9.0 CONSULTANT TEAM CONTINUITY

Since this is an annual RFQ, consultant services contracts will be negotiated throughout the year. It is the City's desire that the consultant team included in the submittal be used for the project for which they are selected. Prior to negotiating the contract, the City will verify that the original team is intact and that the consultant has available resources for the project. If any members of the original team are not available for the contract, the City will request a revised organization chart and qualifications for the new team members. The City reserves the right to approve the revised team, request modifications to the revised team, or reject the team and move to negotiations with the next qualified consultant.

END OF RFQ

Attachment – Consultant Contact Sheet

Attachment – MWBE Utilization Plan (required for each category)

Attachment – Example Consultant Services Contract

RFQ Consultant Contact Sheet

ADDRESS:

MWBE: ☐ Yes (if yes, please attach Certificate)

☐ No

***PLEASE INSERT THIS WITH YOUR SUBMITTAL UNDER GENERAL INFORMATION**

[illegible]



Office of Business Diversity
MWBE UTILIZATION PLAN

Project Category: _____
Date: _____

LEGEND
MWBE = Minority/Woman Business Enterprise

* Ethnicity = Native American (AI), Asian Pacific/Indian (AS), African American (BL), Hispanic (HI), Caucasian Female (WO), or Non- Minority (N/A)

Prime Contractor	MWBE (Yes/No)

LIST ALL SUBCONTRACTING OPPORTUNITIES (use additional sheets if necessary):

Name of Company and Description of Work Type	Potential MWBE Firm Ethnicity* (Yes/No)	Anticipated Dollar (\$) of Work

Please complete this form and include with proposal, as an attachment.
Upon formal award of said project, the proposer will submit a Prime, Subs & MWBE Report identifying the Local and/or MWBE subcontractor(s) that will perform the listed work. By signing below, the recommended proposer shall agree to meet their Local and/or MWBE goal based on the information provided on this document.

Name of Company’s Main Contact Person _____
Signature of Main Contact Person _____



MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE)

Minority and/or Woman-owned Business Enterprises are encouraged to participate in all City procurement solicitation. In order to be identified as a certified Minority/Woman Business Enterprise with the City of Arlington, Texas; this form, along with a copy of the selected certification, should be included with the bid/proposal.

PLEASE CHECK THE APPROPRIATE ETHNICITY AND/OR GENDER:

____ American Indian ____ Asian ____ Black ____ Hispanic ____ Woman Owned

Certification Status: Is the firm certified as a Minority, Woman, or Disadvantaged Business Enterprise by a government or business development agency? ____ Yes ____ No (If yes, please select specific agency)

- ☐ North Central Texas Regional Certification Agency (NCTRCA)
- ☐ State of Texas Historically Underutilized Business (HUB)
- ☐ Dallas/Fort Worth Minority Supplier Development Council (DFW MSDC) or NMSDC affiliate
- ☐ Women's Business Council – Southwest (WBC-SW) or WBENC affiliate
- ☐ Texas Department of Transportation, Disadvantaged Business Enterprise (TxDOT, DBE)
- ☐ Small Business Administration, 8(A) Program
- ☐ Other (please specify) _____

The City of Arlington encourages minority participation and utilizing MWBE subconsultants where there are opportunities on this project.

For City Use Only:

I have reviewed this Utilization Plan and found that the _____ **HAS** or **HAS NOT** complied as per the City's M/WBE Special Provisions.

Verified Goal attainment:

MBE ____% WBE ____%

Reviewer

Date:

THE STATE OF TEXAS §

Consultant Services Contract

COUNTY OF TARRANT §

This Consultant Services Contract is entered into this _____ day of _____, 2021, between **XXXXXXXXXXXXX, Texas** hereinafter referred to as "CONSULTANT" and the **CITY OF ARLINGTON, TEXAS**, a municipal corporation of the State of Texas, hereinafter referred to as "CITY," acting by and through its City Manager or his designee.

WITNESSETH:

WHEREAS, CITY desires assistance in the preparation of plans and specifications for **XXXXXXXXXXXXX**.

WHEREAS, CONSULTANT is qualified and capable of performing the professional services proposed herein and is willing to enter into this Contract with CITY to perform said services; NOW THEREFORE,

In consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

For and in consideration of the covenants herein contained, CONSULTANT hereby covenants and agrees as an independent contractor, to perform the services herein described with diligence and in a manner consistent with the level of care and skill normally exercised for such professional services in the State of Texas. CONSULTANT agrees to perform professional services in connection with the Project as set forth below, and CITY agrees to pay, and CONSULTANT agrees to accept, fees as set forth in this Contract as full and final compensation for all services performed under this Contract. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards. CONSULTANT shall provide professional services for the preparation of plans and specifications for **XXXXXXXXXXXXX**, being located within the City of Arlington, Tarrant County, Texas, and hereinafter referred to as the "Project."

II.

Payment for Services

Total payment for services described herein for the Project shall be a sum not to exceed **XXXXXXXXXXXXX** Dollars and Zero Cents (\$**XXXXXX**). Payments shall be made as set forth in Exhibit "A." No interest shall ever be due on late payments. Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract. CITY will not be required to make any payments to CONSULTANT when CONSULTANT is in default under this Contract, nor shall this paragraph constitute a waiver of any right, at law or in equity, which CITY may have if CONSULTANT is in default, including the right to bring legal action for

damages or for specific performance under this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

III.

Character and Extent of Consulting Services

- A. CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering or landscape architectural profession(s), both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards. CONSULTANT will provide professional services necessary for the work described in Exhibit "A," and incorporated herein and made a part hereof as if written word for word; provided, however, that in case of conflict in the language of Exhibit "A" the terms and conditions of this Professional Services Contract shall be final and binding upon both parties hereto.
- B. It is agreed and understood that this Contract contemplates the full and complete professional services for the Project including changes necessary to complete the Project as outlined herein. CONSULTANT acknowledges by the execution of this Contract that all contingencies known to CONSULTANT and CITY at the date of this Contract, as may be deemed necessary and proper to complete the assignment, have been included in the fee stated herein. CONSULTANT will advise CITY as to the necessity of CITY's providing or obtaining from others special services and data required in connection with the Project (which services and data CONSULTANT is not to provide hereunder). Nothing contained herein shall be construed as authorizing additional fees for services to complete the plans, specifications, inspections, tests, easements and permits necessary for the successful completion of the Project.

IV.

Time for Completion

- A. CONSULTANT agrees to complete and submit all work required by CITY within (XXX) calendar days.
- B. Construction Administration and Observation shall be completed upon final payment and receipt of documents from contractor.

Calendar days shall commence when CONSULTANT is notified to proceed and shall terminate when CITY has accepted the plans as being final. No extensions of time shall be granted unless CONSULTANT submits a written request, and CITY approves such request in writing.

V.

Revisions of Schematic Drawings

CITY reserves the right to direct substantial revision of the schematic drawings after acceptance by CITY as CITY may deem necessary, but in such event CITY shall pay CONSULTANT equitable compensation for services rendered in making such revisions. In any

event, when CONSULTANT is directed to make substantial revisions under this Section of the contract, CONSULTANT shall provide to CITY a written proposal for the entire costs involved in the revisions. Prior to CONSULTANT undertaking any substantial revisions as directed by CITY, CITY must authorize in writing the nature and scope of the revisions and accept the method and amount of compensation and the time involved in all phases of the work.

If revisions of the final schematic drawings are required by reason of CONSULTANT'S error or omission, then such revisions shall be made by CONSULTANT without additional compensation to the fees herein specified, and in a time frame as directed by CITY.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Section II., "Payment for Services," may require Arlington City Council approval and is subject to funding limitations.

VI.

Consultant's Coordination with Owner

CONSULTANT shall be available for conferences with CITY so that Project can be designed with the full benefit of CITY'S experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. CITY shall make available to CONSULTANT all existing plans, maps, field notes, and other data in its possession relative to the Project. CONSULTANT may show justification to CITY for changes in design from CITY standards due to the judgement of said CONSULTANT of a cost savings to CITY and/or due to the surrounding topographic conditions. CITY shall make the final decision as to any changes after appropriate request by CONSULTANT.

VII.

Termination

This contract may be terminated at any time by CITY for any cause without penalty or liability except as may otherwise be specified herein. Upon receipt of written notice by CITY, CONSULTANT shall immediately discontinue all services and CONSULTANT shall immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this contract. As soon as practicable after receipt of notice of termination, CONSULTANT shall submit a statement, showing in detail the services performed but not paid for under this contract to the date of termination. CITY shall then pay CONSULTANT promptly the accrued and unpaid services to the date of termination, to the extent the services are approved by CITY.

This contract may be terminated by CONSULTANT with mutual consent of CITY at any time for any cause without penalty or liability except as may otherwise be specified herein. CONSULTANT shall submit written notice to terminate contract and shall submit to CITY all plans and documents relative to the design of Project. CITY shall then ascertain cost to complete the balance of the work under this contract. If the cost to complete the balance of the work is greater than the unpaid contract amount, CITY shall retain all unpaid balances and, in addition, CONSULTANT shall pay directly to CITY the difference in the unpaid balance and the cost to complete the work. In no case shall CITY pay CONSULTANT any additional monies other than those previously paid under the contract.

VIII.
Ownership of Documents

All drawings, specifications, and other documents or instruments of professional services prepared or assembled by CONSULTANT under this Contract shall become the sole property of CITY and shall be delivered to CITY, without restriction on future use. CONSULTANT shall retain in its files all original drawings, specifications, documents or instruments of professional services as well as all other pertinent information for the work. CONSULTANT shall have no liability for re-use on other projects and/or changes made to the drawings and other documents by other consultants subsequent to the completion of the contract. CITY shall require that any such change be sealed, dated, and signed by the engineer or landscape architect making that change and shall be appropriately marked to reflect what was changed or modified.

IX.
Insurance

- A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by CITY, nor shall the CONSULTANT allow any sub-consultant to commence work on its own subcontract until all similar insurance of the sub-consultant has been obtained and approved. All insurance policies provided under this Contract shall be written on an "occurrence" basis, except as may be otherwise provided herein below. The insurance requirements shall remain in effect throughout the term of this Contract.
1. Worker's Compensation Insurance, as required by law; with the policy endorsed to provide a waiver of subrogation as to the CITY, Employers Liability Insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease-each employee, \$1,000,000 disease-policy limit.
 2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering, but not limited to the indemnification provisions of this Contract, fully insuring CONSULTANT's liability for injury to or death of employees of CITY and third parties, extended to include personal injury liability coverage and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence and \$2,000,000 aggregate.
 3. Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of \$1,000,000 per occurrence.
 4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be \$1,000,000 per claim and \$2,000,000 aggregate. The coverage under this policy shall include a contractual liability endorsement. CONSULTANT must maintain this policy for a period of four (4) 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.

5. Umbrella Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract umbrella insurance. Limits of liability shall be \$2,000,000.00.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy:

1. Name CITY as an additional insured as to all applicable coverage(s) except Worker's Compensation and Employer's Liability Insurance and Professional Liability Insurance;
2. Each policy will require that thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, a notice thereof shall be given to CITY by certified mail to:

Risk Manager
City of Arlington
Post Office Box 90231
Arlington, Texas 76004-3231

If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to CITY is required;

3. The term "Owner" or "CITY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of CITY and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of CITY;
6. The policy phrase "other insurance" shall not apply to CITY where CITY is an additional insured on the policy; and
7. All provisions of the Contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the requirements to be fulfilled by CONSULTANT. The CITY's decision thereon shall be final; and,
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against CITY, it being the intention that the insurance policies shall protect all parties to the Contract and be primary coverage for all losses covered by the policies;

2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against CITY for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by CITY regarding any insurance supplied by CONSULTANT (or any sub-consultants) shall not relieve CONSULTANT of full responsibility or liability, if any, for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability;
4. No special payments shall be made for any insurance that CONSULTANT and subcontractors, if any, are required to carry; all are included in the contract price and the contract unit prices; and
5. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby. CITY's Risk Manager reserves the right to review the insurance requirements stated in this Contract during the effective period.

X.
Monies Withheld

When CITY has reasonable grounds for believing that:

- A. CONSULTANT will be unable to perform this contract fully and satisfactorily within the time fixed for performance; or
- B. A claim exists or will exist against CONSULTANT or CITY arising out of the negligence of the CONSULTANT or the CONSULTANT'S breach of any provision of this contract; then CITY may withhold payment of any amount otherwise due and payable to CONSULTANT under this contract. Any amount so withheld may be retained by CITY for that period of time as it may deem advisable to protect CITY against any loss and may, after written notice to CONSULTANT, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of CITY by reason of CITY'S failure or refusal to withhold monies. No interest shall be payable by CITY on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of CITY.

XI.
No Damages for Delays

Notwithstanding any other provision of this contract, CONSULTANT shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

XII.
Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses

In performing this Contract, CONSULTANT agrees to use diligent efforts to purchase all goods and services from Arlington Businesses whenever such goods and services are comparable in availability, quality, and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers, or other persons in organizations proposed for work on this Contract, the CONSULTANT agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

CONSULTANT agrees to provide information about its minority status at time of contract execution. City will provide a Data Gathering Form with the award letter. CONSULTANT will also be required to submit cost information toward Minority/Women Business Enterprises. The information submitted shall include the CONSULTANT and any other firms performing work as a part of this contract, such as surveying services. See attached form. CONSULTANT will be required to submit this form with anticipated dollar amounts (if applicable) upon execution of the contract for this project and to resubmit the same form with actual costs spent prior to final payment of this contract.

XIII.
Right to Inspect Records

CONSULTANT agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that CITY shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. CITY shall give CONSULTANT reasonable advance notice of intended audits.

CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subconsultant or consultant agrees that CITY shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subconsultant involving transactions to the subcontract, and further, that CITY shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. CITY shall give the consultant or subconsultant reasonable advance notice of intended audits.

XIV.
No Third-Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (CITY and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with CITY or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or CONSULTANT.

XV.
Successors and Assigns

CITY and CONSULTANT each bind themselves, their successors, executors, administrators and assigns to the other party of this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this contract. Neither CITY nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XVI.
Consultant's Liability

Acceptance of the final plans by CITY shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by CITY for any defect in the designs, working drawings, specifications or other documents prepared by said CONSULTANT, its employees, subconsultants, agents and consultants.

XVII.
Indemnification

CONSULTANT does hereby covenant and contract to indemnify and hold harmless CITY and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including reasonable attorney fees of litigation and/or settlement, that may arise by reason of death of or injury to persons or damage to or loss of use of property occasioned by any wrongful intentional act or omission of CONSULTANT as well as any negligent omission, act or error of CONSULTANT, its officials, officers, agents, employees and invitees, or other persons for whom CONSULTANT is legally liable with regard to the performance of this Contract, whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence or any other form of negligence. In the event of joint or concurrent negligence of CONSULTANT and CITY, responsibility, if any, shall be

apportioned comparatively in accordance with the laws of the State of Texas. Nothing in this paragraph is intended to waive any governmental immunity available to CITY under Texas law or waive any defenses of CONSULTANT or CITY under Texas law. This paragraph shall not be construed for the benefit of any third party, nor does it create or grant any right or cause of action in favor of any third party against CITY or CONSULTANT.

CONSULTANT warrants that no music, literary or artistic work or other property protected by copyright will be reproduced or used, nor will the name of any entity protected by trademark be reproduced or used by CONSULTANT unless CONSULTANT has obtained written permission from the copyright or trademark holder as required by law, subject also to CITY's consent. CONSULTANT covenants to comply strictly with all laws respecting copyrights, royalties and trademarks and warrants that it will not infringe any related statutory, common law or other right of any person or entity in performing this Contract. CONSULTANT will indemnify and hold CITY and its officers, agents and employees harmless from all claims, losses and damages (including reasonable attorney's fees) with respect to such copyright, royalty or trademark rights to the extent caused by CONSULTANT or for whom CONSULTANT is legally liable.

The provisions of this section are intended to only provide indemnification to the extent allowed by Texas Local Gov't Code Sec. 271.094 and shall be construed to that effect. The CONSULTANT as allowed by Texas Local Gov't Code Sec. 271.084 will still name CITY as additional insured in its General Liability Policy and provide any defense as allowed by the policy.

XVIII. Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIX. Independent Contractor

CONSULTANT covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of CITY; that CONSULTANT shall have exclusive control of and the exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors and consultants and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONSULTANT.

XX.
Disclosure

By signature of this Contract, CONSULTANT acknowledges to CITY that he/she has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed Project and business relationships with abutting property owners. CONSULTANT further agrees that he/she will make disclosure in writing of any conflicts of interest, which develop subsequent to the signing of this Contract and prior to final payment under the Contract.

XXI.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Arlington, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas.

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein, cannot be modified without written agreement of the parties.

XXIII.
Applicable Law

This Contract is entered into subject to the Arlington City Charter and ordinances of CITY, as same may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and Federal laws. Situs of this Contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

XXIV.
Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy, the cost to CITY of the performance of the balance of the work is in excess of that part of the contract sum which has not therefore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse CITY for such excess.

XXV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXVI.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXVII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXVIII.
Equal Employment Opportunity

CONSULTANT shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, disability, ancestry, national origin or place of birth. CONSULTANT shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, disability, ancestry, national origin or place of birth. This 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 of training including apprenticeship. Upon final determination by a court of competent jurisdiction that the CONSULTANT has violated this section, this Contract shall be deemed terminated and CONSULTANT'S further rights hereunder forfeited.

XXIX.
Notices

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for CITY, to:

City of Arlington – Mail Stop 05-0100
ATTN: Mike Hunter
Director of Parks and Recreation
P.O. Box 90231
Arlington, Texas 76004-3231

If intended for CONSULTANT, to:

ATTN: XXXXXXXXX

XXXI
ISRAEL PROVISION

Pursuant to Chapter 2270 of the Texas Government Code, the CONSULTANT verifies by signing this Contract that the CONSULTANT does not boycott Israel and will not boycott Israel during the term of this Contract.

XXXII
Title VI

The City of Arlington, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all vendors that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. Vendor will abide and ensure compliance with all terms of Appendix A of the USDOT Standard Title VI Assurances as listed below.

Appendix A of the USDOT Standard Title VI Assurances

During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

(1) **Compliance with Regulations**: The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-Assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination**: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Arlington or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the City of Arlington, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Arlington shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Engineer under the contract until the Engineer complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Engineer shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Engineer shall take such action with respect to any subcontract or procurement as the City of Arlington or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Arlington to enter into such litigation to protect the interests of the City of Arlington, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first written above.

XXXXXXXXXXXX

BY: _____
Signature

XXXXXXX
Tax Identification No.

WITNESS:

CITY OF ARLINGTON, TEXAS

ATTEST:

Alex Busken,
City Secretary

BY_____
Mike Hunter,
Director Parks & Recreation
Department

APPROVED AS TO FORM:
Teris Solis, City Attorney

BY_____

THE STATE OF TEXAS §

Consultant Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **XXXXXXX** who is known to me or who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **XXXXXXXXXXXX**, a _____ of Tarrant County, Texas, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2017,

Notary Public, State of Texas

My Commission Expires

Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Lemuel Randolph**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **City of Arlington, Texas**, a municipal corporation of Tarrant County, Texas, and as the Director of the Parks & Recreation Department thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2017.

Notary Public, State of Texas

My Commission Expires

Notary's Printed Name

**FOR MINORITY AND/OR WOMAN OWNED
BUSINESS ENTERPRISES**

(To be completed only if applicable)

Minority and/or Woman Owned Business Enterprises are encouraged to participate in Arlington's procurement process. In order to be identified as a Qualified Minority and/or Woman Owned Business Enterprise in the City of Arlington, this form, along with a copy of your certification, must be returned to the RFQ Contact in the City of Arlington Community Development and Planning Department. You should return these documents with this response, or if you have already submitted this form and a copy of your certification to the Purchasing Division, it is not necessary to re-send certification.

COMPANY NAME: _____

REPRESENTATIVE: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

EMAIL: _____

TELEPHONE NO.: _____ FAX NO.: _____

INDICATE ALL THAT APPLY

_____ Minority Owned Business Enterprise

_____ Woman Owned Business Enterprise

MINORITY STATUS: Has this firm been certified as a minority, women or disadvantaged business enterprise by any governmental agency?

____ Yes No ____ if yes, please specify government agency:

Date of certification:

The above information is for information only. The City of Arlington encourages minority business participation; however no preferences shall be given.

MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE)
DATA GATHERING FORM
(CONSULTANT SERVICES CONTRACT)

The City of Arlington is gathering data on MWBE businesses. In order to be identified as a certified Minority/Woman Business Enterprise (MWBE) in the City of Arlington, please complete this form, include copy of your Certification and return with your RFQ documents. Please note that this data is for information only.

Name of Consultant: _____

Is Consultant MWBE? ☐ YES ☐ NO

If yes, please check all that applies:

- ☐ Native American (AI)
- ☐ Native American, Women-Owned (NW)
- ☐ Asian (AS)
- ☐ Asian, Women-Owned (AW)
- ☐ Black (BL)
- ☐ Black, Women-Owned (BW)
- ☐ Hispanic (HI)
- ☐ Hispanic, Women-Owned (HW)
- ☐ Women-Owned (WO)

MWBE Certifications accepted by the City of Arlington. The City will review other MWBE Certification.

- ☐ North Central Texas Regional Certification Agency (NCTRCA)
- ☐ State of Texas, historically Underutilized Business (HUB)
- ☐ Dallas/Fort Worth Minority Supplier Development Council (DFW MSDC)
- ☐ Women's Business Council – Southwest (WBC-SW)
- ☐ Texas Department of Transportation (TxDOT)
- ☐ South Central Texas Regional Certification Agency (SCTRCA)
- ☐ Others (please specify) - _____