



PURCHASING DIVISION
 REQUEST FOR PROPOSALS (RFP)
 for
EDUCATION OUTREACH CAMPAIGNS
 RFP No. 11-0274

Issued: June 29, 2011
PROPOSAL SUBMISSION DEADLINE:
***** July 28, 2011 by 1:30PM Local Time *****
NO LATE PROPOSALS WILL BE ACCEPTED

<p><u>RESPONSES SHALL BE DELIVERED TO:</u></p> <p>CITY OF FORT WORTH PURCHASING DIVISION LOWER LEVEL 1000 THROCKMORTON STREET FORT WORTH, TEXAS 76102</p>	<p><u>RESPONSES SHALL BE MAILED TO:</u></p> <p>CITY OF FORT WORTH PURCHASING DIVISION LOWER LEVEL 1000 THROCKMORTON STREET FORT WORTH, TEXAS 76102</p>
<p>*****</p> <p>FOR ADDITIONAL INFORMATION REGARDING THIS RFP PLEASE CONTACT: Diane Covey, Public Information Officer Diane.Covey@fortworthgov.org *****</p> <p>RETURN THIS COVER SHEET WITH RESPONSE TO:</p> <p>Diane Covey Public Information Officer Solid Waste Division Code Compliance Department</p>	<p><u>NAME AND ADDRESS OF COMPANY SUBMITTING PROPOSAL:</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Contact Person: _____</p> <p>Title: _____</p> <p>Phone: () _____ Fax: () _____</p> <p>Email: _____</p> <p>Signature: _____</p> <p>Printed Name: _____</p>
<p>Acknowledgment of Addenda: #1 _____ #2 _____ #3 _____ #4 _____ #5 _____</p>	

Request for Proposals

The City of Fort Worth Code Compliance Department, Solid Waste Division, is soliciting quotes for a marketing consultant to assist in the development and implementation of the following education outreach campaigns:

- Recycling education outreach campaign
- Litter prevention education outreach campaign
- Commercial recycling education outreach campaign

General Provisions

1.0 SUBMISSION OF PROPOSALS

1.1 One (1) original, three (3) copies and two (2) electronic disk of all Proposal documents shall be submitted in sealed packages. Proposer's name and address should be marked on the outside of the envelope. Facsimile transmittals or offers communicated by telephone will not be accepted or considered. Proposal information that is not submitted in sealed packages will not be considered.

1.2 Mail or Deliver Responses to the Following Address:

City of Fort Worth
Purchasing Division
1000 Throckmorton Street, Lower Level
Fort Worth, Texas 76102
ATTN: Diane Covey, Solid Waste Division, Code Compliance Department

2.0 DELIVERY OF PROPOSALS

Proposals must be received in the City of Fort Worth's Purchasing Division no later than 1:30 p.m., July 28, 2011. The submitting Proposer is responsible for the means of delivering the proposals to the location listed in paragraph 1.2 on time. Delays due to any instrumentality used to transmit the Proposals including delay occasioned by the Proposer or the City of Fort Worth's internal mailing system will be the responsibility of the Proposer. Proposals must be completed and delivered in sufficient time to avoid disqualification for lateness due to difficulties in delivery. The time and date stamp clock in City of Fort Worth (City) Purchasing Division is the official clock for determining whether submittals are submitted timely. **Late Proposal documents will not be accepted under any circumstances.**

3.0 PROPRIETARY INFORMATION

3.1 If a Proposer does not desire proprietary information in the Proposal to be disclosed, it is required to identify all proprietary information in the Proposal. This identification will be done by individually marking each page with the words "Proprietary Information" on which such proprietary information is found. If the Proposer fails to identify proprietary information, it agrees that by submission of its Proposal that those sections shall be deemed non-proprietary and made available upon public request.

3.2 Proposer's are advised that the City, to the extent permitted by law, will protect the confidentiality of their Proposals. Proposer shall consider the implications of the Texas

Public Information Act, particularly after the RFP process has ceased and the Contract has been awarded. While there are provisions in the Texas Public Information Act to protect proprietary information, where the Proposer can meet certain evidentiary standards, please be advised that a determination on whether those standards have been met will not be decided by the City of Fort Worth, but by the Office of the Attorney General of the State of Texas. In the event a request for public information is made, the City will notify the Proposer, who may then request an opinion from the Attorney General pursuant to 552.305, Texas Government Code. The City will not make a request of the Attorney General.

4.0 COMPLETION OF RESPONSES

- 4.1 Information presented in the Proposals will be used to evaluate the professional qualifications of the Proposer(s) and to determine the Proposer(s) which will be selected to provide professional services to the City.
- 4.2 Responses shall be completed in accordance with the requirements of this RFP. Statements made by a Proposer shall be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.
- 4.3 Proposals shall be limited to a maximum of ten (10) 8-1/2" X 11" pages (one side only and including cover letter) using a font size no smaller than 11 point and one inch margins.

5.0 CLARIFICATIONS AND ISSUANCE OF ADDENDA

- 5.1 Any explanation, clarification, or interpretation desired by a Proposer regarding any part of this RFP must be requested from Diane Covey, Public Information Officer, at least fifteen (15) days prior to the published submission deadline, as referenced in Section 2.0 of this RFP.
- 5.2 If the City, in its sole discretion, determines that a clarification is required, such clarification shall be issued in writing. Interpretations, corrections or changes to the RFP made in any other manner other than writing are not binding upon the City, and Proposers shall not rely upon such interpretations, corrections or changes. Oral explanations or instructions given before the award of the Contract are not binding.
- 5.3 Requests for explanations or clarifications may be emailed to diane.covey@fortworthgov.org. Emails and faxes must clearly identify the RFP Number and Title.
- 5.4 Any interpretations, corrections or changes to this RFP will be made by addendum. Sole issuing authority of addenda shall be vested in the City of Fort Worth Purchasing Division. Proposers shall acknowledge receipt of all addenda within the responses.

6.0 WITHDRAWAL OF PROPOSALS

A representative of the company may withdraw a Proposal at any time **prior to** the RFP submission deadline, upon presentation of acceptable identification as a representative of such company.

7.0 AWARD OF CONTRACT

7.1 It is understood that the City reserves the right to accept or reject any and all Proposals and to re-solicit for Proposals, as it shall deem to be in the best interests of the City of Fort Worth. Receipt and consideration of any Proposals shall under no circumstances obligate the City of Fort Worth to accept any Proposals. If an award of contract is made, it shall be made to the responsible Proposer whose Proposal is determined to be the best evaluated offer taking into consideration the relative importance of the evaluation factors set forth in the RFP.

7.2 The City reserves the right to award a single contract or multiple contracts by section listed in the Scope of Work.

7.3 **Tentative** Schedule of Events

RFP Release Date	June 29, 2011
Deadline for Questions	July 13, 2011 5:00 PM (Local Time)
Proposals Due Date	July 28, 2011 by 1:30 PM (Local Time)
Consultant Selection	July 29, 2011 through August 2, 2011
Contract Negotiations	August 2, 2011 through August 4, 2011
Notice to Proceed (anticipated)	August 5, 2011

8.0 PERIOD OF ACCEPTANCE

Proposer acknowledges that by submitting the Proposal, Proposer makes an offer that, if accepted in whole or part by the City, constitutes a valid and binding contract as to any and all items accepted in writing by the City. The period of acceptance of proposals is one hundred and eighty (180) calendar days from the date of opening, unless the Proposer notes a different period.

9.0 TAX EXEMPTION

The City of Fort Worth is exempt from Federal Excise and State Sale Tax; therefore, tax must not be included in any contract that may be awarded from this RFP.

10.0 COST INCURRED IN RESPONDING

All costs directly or indirectly related to preparation of a response to the RFP or any oral presentation required to supplement and/or clarify a Proposals which may be required by the City shall be the sole responsibility of and shall be borne by the participating Proposers.

11.0 NEGOTIATIONS

The City reserves the right to negotiate all elements that comprise the successful Consultant's response to ensure that the best possible consideration be afforded to all concerned.

12.0 CONTRACT INCORPORATION

The contract documents shall include the RFP, the Response to the RFP, the City's Professional Services Agreement (Attachment B to this RFP) and such other terms and conditions as the parties may agree.

13.0 NON-ENDORSEMENT

If a Proposal is accepted, the successful Proposer, hereinafter “Consultant,” shall not issue any news releases or other statements pertaining to the award or servicing of the agreement that state or imply the City of Fort Worth’s endorsement of the successful Proposer’s services.

14.0 UNAUTHORIZED COMMUNICATIONS

After release of this solicitation, Proposers’ contact regarding this RFP with members of the RFP evaluation, interview or selection panels, employees of the City or officials of the City other than the Purchasing Manager, the Minority and Women Business Enterprise (M/WBE) Office, or as otherwise indicated is prohibited and may result in disqualification from this procurement process. No officer, employee, agent or representative of the Proposer shall have any contact or discussion, verbal or written, with any members of the City Council, members of the RFP evaluation, interview, or selection panels, City staff or City’s consultants, or directly or indirectly through others, seek to influence any City Council member, City staff, or City’s consultants regarding any matters pertaining to this solicitation, except as herein provided. If a representative of any Proposer violates the foregoing prohibition by contacting any of the above listed parties with whom contact is not authorized, such contact may result in the Proposer being disqualified from the procurement process. Any oral communications are considered unofficial and non-binding with regard to this RFP.

15.0 PROPOSAL EVALUATION PROCESS

- 15.1 An evaluation committee will evaluate the responses to this Request for Proposals, may interview one or more firms, and may recommend one or more firms to the City Manager. Selection of a firm may be made without discussion with Proposers after proposals are received. Proposals should, therefore, be submitted on the most favorable terms.
- 15.2 The City's evaluation panel will review all responsive submittals and select the best evaluated proposals for further interview.
- 15.3 The City anticipates selecting a Proposer that will be recommended to the City Council for award of a contract to provide the requested professional services to the City of Fort Worth.
- 15.4 The City reserves the right to reject any or all proposals.

16.0 PROPOSAL EVALUATION FACTORS

- | | | |
|------|---|---------------------|
| 16.1 | Responsiveness and Clarity of Proposal | 10 points available |
| 16.2 | Background and Experience of Firm | 20 points available |
| 16.3 | Experience working in local market with Public education & outreach | 40 points available |
| 16.4 | Contract Cost | 30 points available |

Standard Terms and Conditions

These standard terms and conditions and any special terms and conditions become part of any contract entered into if any or all parts of the Proposals are accepted by the City of Fort Worth.

17.0 ASSIGNMENT

The Consultant may not assign its rights or duties under an award without the prior written consent of the City of Fort Worth. Such consent shall not relieve the assignor of liability in the event of default by its assignee.

18.0 ERRORS OR OMISSIONS

The Consultant will not be allowed to take advantage of any errors or omissions in this RFP. Where errors or omissions appear in this RFP, the Consultant shall promptly notify the City of Fort Worth Purchasing Division in writing of such error or omission it discovers. Any significant errors, omissions or inconsistencies in this RFP are to be reported no later than ten (10) days before time for the RFP response is to be submitted.

19.0 INDEMNITY AND RELEASE

19.1 Consultant shall defend, indemnify and hold harmless the City of Fort Worth and all its Officers, Agents and Employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons or property due to any negligent act or fault of the Consultant, or of any agency, Employee, Subcontractor or supplier under the Consultant in the execution of, or performance under, any contract awarded. Consultant indemnifies and will indemnify and hold harmless the City of Fort Worth from liability, claim or demand on their part, Agents, servants, customers and/or Employees whether such liability, claim or demand arise from event or casualty happening or within the occupied premises themselves or happening upon or in the halls, elevators, entrances, stairways or approaches of or the facilities within which the occupied premises are located. Consultant shall pay any judgment with costs that may be obtained against the City of Fort Worth growing out of such injury or damages.

19.2 In addition to the indemnification requirement above, Consultant shall execute a statement releasing Fort Worth from any liability for injury or property damage incurred during this contract, unless such injury or property damage was the result of intentional conduct committed by an Employee of the City. Further, all Employees, Officers, and Agents of the Consultant or any Subconsultant shall be required to execute the release prior to entering into performance of any work associated with the contract to be awarded hereunder.

20.0 TERMINATION

20.1 If this award results in a contract, it shall remain in effect until contract expires, delivery and acceptance of products and/or performance of services ordered or terminated by the City with a thirty (30) day written notice prior to cancellation. In the event of termination, the City of Fort Worth reserves the right to award a contract to next lowest and best Consultant as it deems to be in the best interest of the City of Fort Worth.

20.2 Further, the City of Fort Worth may cancel this contract without expense to the City in the event that funds have not been appropriated for expenditures under this contract. The City of Fort Worth will return any delivered but unpaid goods in normal condition to the Consultant.

21.0 TERMINATION, REMEDIES, AND CANCELLATION

21.1 Right to Assurance. Whenever the City has reason to question the Consultant's intent to perform, the City may demand that the Consultant(s) give written assurance of Consultant's intent to perform. In the event a demand is made, and no assurance is given within ten (10) calendar days, the City may treat this failure as an anticipatory repudiation of the contract.

21.2 The City may terminate this agreement if the Consultant(s) fails to cure a material breach, which substantially impairs the value of the contract as a whole within thirty (30) calendar days of receipt of written notice being given by the other party. If more than thirty (30) calendar days are required to cure such default or breach, a reasonable time in excess of said days may be established, provided both parties agree in writing as to the time period to be substituted. In the event such default or breach is not cured within a specified time, the City may terminate this agreement upon thirty (30) calendar days written notification.

21.3 The City may also cancel this agreement for convenience upon thirty (30) calendar days written notice to the Consultant. Effective date of such notice shall begin three (3) days after date of posting with the United States Postal Service with said notice being sent to last known address of Consultant(s).

22.0 VENUE

The agreement(s) will be governed and construed according to the laws of the State of Texas. The agreement(s) is (are) performable in Tarrant County, Texas. Venue shall lie exclusively in Tarrant County, Texas.

23.0 CONFLICT OF INTEREST

No public official shall have interest in this contract, in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitled C., Chapter 171.

24.0 INSURANCE

The Consultant shall carry insurance in the types and amounts for the duration of this agreement as listed in the Professional Services Agreement, Attachment B to this RFP, and furnish certificates of insurance along with copies of policy declaration pages and policy endorsements as evidence thereof.

25.0 CONTRACT CONSTRAINTS AND CONDITIONS

25.1 All services shall be provided in accordance with applicable requirements and ordinances of the City of Fort Worth, laws of the State of Texas, and applicable federal laws.

25.2 The Contract(s) awarded from this RFP shall be executed for a four (4) months initial term with two (2) one-year options to renew at the City's sole discretion.

26.0 SCOPE OF WORK

The City of Fort Worth Code Compliance Department, Solid Waste Division, is soliciting quotes for a marketing consultant to assist in the development and implementation of the following education outreach campaigns:

- Recycling education outreach campaign
- Litter prevention education outreach campaign
- Commercial recycling education outreach campaign

Each campaign has its individual goals that must be met through the development of the campaign materials.

The quote is for marketing consultant services only and does not include any print services, postage fees, insertion fees, etc.

Below is the detailed outline of services that may be provided by the marketing consultant. Please develop your bid based on these criteria. Please note all collaterals will be produced in English and Spanish. Translation will be provided by the City of Fort Worth.

26.1 Recycling Education Outreach Campaign

26.1.1 Goals

- Increase the amount of recycling in Fort Worth from its residential customers
- Decrease the amount of recycled contamination

26.1.2 Campaign Core Messaging

26.1.3 Public Service Announcement

- PSA storyboard development – 1 concept and up to 2 rounds of edits
- Content development based on approved messaging
- Production consulting
- NOTE: Actual PSA production/talent/voice is not required in this line item.

26.1.4 Flyer Development for Communication Efforts

- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.1.5 Direct Mail – Recycle Audit Template + 4 Setups

- 1 template concept, up to 2 rounds of edits
- 4 setups based on quarterly recycle results
- Content development based on approved messaging

26.1.6 Youth Recycle Communication

- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.1.7 Campaign Microsite

- 1 concept, up to 2 rounds of edits
- Development of a site up to 10 pages

26.1.8 Social Media Campaign

- Setup appropriate targeted social sites (if necessary)
- Create communication calendar for messages
- Feed messages according to communication calendar
- Monitor and interact as needed to foster participation

26.1.9 YouTube-type Video Development

- Video storyboard development to support social media and online communications (up to 5, 1-minute video clips)
- Actual shoot of videos
- Editing of 1-minute videos

26.1.10 Ad Design

- 2 concepts, up to 2 rounds of edits
- Content development based on approved messaging

26.1.11 Billboard Design

- 1 concept, up to 2 rounds of edits

26.1.12 Content development based on approved messaging

- Tradeshow Booth Creative
 - Development of a design for existing 10x10 pop-up structure
 - 1 concept, up to 2 rounds of edits

26.1.13 Content development based on approved messaging

- Blue Crew in Action Photo Shoot
 - Individual & Group Shots for Campaign
 - Includes Creative Direction at Shoot
 - High-resolution images delivered and used within campaign elements

26.2 Litter Education Outreach Campaign

26.2.1 Goals

- Create a general awareness amongst the City of Fort Worth residents regarding the effects of litter
- Decrease the amount of litter within the City of Fort Worth

26.2.2 Core Messaging of the campaign

26.2.3 Billboard Design

- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.2.3 Ad Design

- 1 concept, up to 2 rounds of edits

- Content development based on approved messaging

26.3 Commercial Recycling Education Outreach campaign

26.3.1 Goals

- Increase the amount of commercial recycling in Fort Worth.
- Educate local businesses on the benefits to recycling.
- Educate the local businesses on methods of selecting a quality recycling service providers.

26.3.2 Campaign Core Messaging

26.3.3 Flyer Development for Communication Efforts

- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.3.4 Commercial Recycling Awareness Poster

- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.3.5 Social Media Campaign

- Setup appropriate targeted social sites (if necessary)
- Create communication calendar for messages
- Feed messages according to communication calendar
- Monitor and interact as needed to foster participation

26.3.6 Educational Webinar

- Develop a 30-minute presentation to be delivered in the form of an informational webinar to businesses that are looking at a recycling program.
- Create pieces to promote the scheduled webinars (web banners, email campaign, and call program)
- Set up appropriate webinar delivery channel and manage administrative efforts of registration and follow-up

26.3.7 Ad Design

- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.3.8 Tradeshow Booth Creative

- Development of a design for existing 10x10 pop-up structure
- 1 concept, up to 2 rounds of edits
- Content development based on approved messaging

26.3.9 Promotional Item to Support Campaign

- Item would be distributed at various events to reinforce campaign messaging.
- Quantity: 1000 items

27.0 Additional Services to include:

27.1 Miscellaneous Writing Efforts for media releases, promotional (up to 5 hours)

- 27.2 Attend various face-to-face meetings with city staff and other vendors.
- 27.3 Provide print-ready for all collaterals, liaison with printers and perform press checks as needed

ATTACHMENT A

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity	
<p>This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.</p> <p>By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person violates Section 176.006, Local Government Code.</p> <p>An offense under this section is a Class C misdemeanor.</p>	<p>OFFICE USE ONLY Date Received</p>
<p>1. Name of person doing business with local governmental entity.</p>	
<p>2. <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>	
<p>3. Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.</p>	
<p>4. Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.</p>	

5. Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.)

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

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

Yes No

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

Yes No

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

Yes No

D. Describe each affiliation or business relationship.

6. Describe any other affiliation or business relationship that might cause a conflict of interest.

7.

Signature of person doing business with the governmental entity

Date

ATTACHMENT B

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is made and entered into by and between the **CITY OF FORT WORTH** (the “City”), a home rule municipal corporation situated in portions of Tarrant, Denton and Wise Counties, Texas, acting by and through Karen L. Montgomery, its duly authorized Assistant City Manager, and **[INSERT FULL LEGAL NAME OF VENDOR]** (“Consultant”), a [enter state] [enter type of entity] and acting by and through [insert name of authorized signatory], its duly authorized president and CEO.

1. SCOPE OF SERVICES.

Consultant hereby agrees to provide the City with professional consulting services for the purpose of [insert purpose of agreement]. Attached hereto and incorporated for all purposes incident to this Agreement is **Exhibit “A,”** Statement of Work, more specifically describing the services to be provided hereunder.

2. TERM.

This Agreement shall commence upon August 5, 2011 – (“Effective Date”) and shall expire on November 30, 2011, unless terminated earlier in accordance with the provisions of this Agreement. [Insert any available options]

3. COMPENSATION.

The City shall pay Consultant an amount not to exceed [insert amount] in accordance with the provisions of this Agreement and the Payment Schedule attached as **Exhibit “B,”** which is incorporated for all purposes herein. Consultant shall not perform any additional services for the City not specified by this Agreement unless the City requests and approves in writing the additional costs for such services. The City shall not be liable for any additional expenses of Consultant not specified by this Agreement unless the City first approves such expenses in writing.

4. TERMINATION.

4.1. Written Notice.

The City or Consultant may terminate this Agreement at any time and for any reason by providing the other party with 30 days written notice of termination.

4.2 Non-appropriation of Funds.

In the event no funds or insufficient funds are appropriated by the City in any fiscal period for any payments due hereunder, City will notify Consultant of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds shall have been appropriated.

4.3 Duties and Obligations of the Parties.

In the event that this Agreement is terminated prior to the Expiration Date, the City shall pay Consultant for services actually rendered up to the effective date of termination and Consultant shall continue to provide the City with services requested by the City and in accordance with this Agreement up to the effective date of termination.

5. DISCLOSURE OF CONFLICTS AND CONFIDENTIAL INFORMATION.

Consultant hereby warrants to the City that Consultant has made full disclosure in writing of any existing or potential conflicts of interest related to Consultant's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Consultant hereby agrees immediately to make full disclosure to the City in writing. Consultant, for itself and its officers, agents and employees, further agrees that it shall treat all information provided to it by the City as confidential and shall not disclose any such information to a third party without the prior written approval of the City. Consultant shall store and maintain City Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Consultant shall notify the City immediately if the security or integrity of any City information has been compromised or is believed to have been compromised.

6. RIGHT TO AUDIT.

Consultant agrees that the City shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of the consultant involving transactions relating to this Contract at no additional cost to the City. Consultant agrees that the City shall have access during normal working hours to all necessary Consultant facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The City shall give Consultant reasonable advance notice of intended audits.

Consultant further agrees to include in all its subcontractor agreements hereunder a provision to the effect that the subcontractor agrees that the City shall, until expiration of three (3) years after final payment of the subcontract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of such subcontractor involving transactions related to the subcontract, and further that City shall have access during normal working hours to all 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 subcontractor reasonable notice of intended audits.

7. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Consultant shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the City. Subject to and in accordance with the conditions and provisions of this Agreement, Consultant shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors and subcontractors. Consultant acknowledges that the doctrine of *respondeat superior* shall not apply as between the City, its officers, agents, servants and employees, and Consultant, its officers, agents, employees, servants, contractors and subcontractors. Consultant further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between City and Consultant.

8. LIABILITY AND INDEMNIFICATION.

CONSULTANT SHALL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL MISCONDUCT OF CONSULTANT, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

CONSULTANT COVENANTS AND AGREES TO, AND DOES HEREBY, INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO CONSULTANT'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OR MALFEASANCE OF CONSULTANT, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.

9. ASSIGNMENT AND SUBCONTRACTING.

Consultant shall not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the City. If the City grants consent to an assignment, the assignee shall execute a written agreement with the City and the Consultant under which the assignee agrees to be bound by the duties and obligations of Consultant under this Agreement. The Consultant and Assignee shall be jointly liable for all obligations under this Agreement prior to the assignment. If the City grants consent to a subcontract, the subcontractor shall execute a written agreement with the Consultant referencing this Agreement under which the subcontractor shall agree to be bound by the duties and obligations of the Consultant under this Agreement as such duties and obligations may apply. The Consultant shall provide the City with a fully executed copy of any such subcontract.

10. INSURANCE.

Consultant shall provide the City with certificate(s) of insurance documenting policies of the following minimum coverage limits that are to be in effect prior to commencement of any work pursuant to this Agreement:

10.1 Coverage and Limits

- (a) Commercial General Liability
\$1,000,000 Each Occurrence
\$2,000,000 Aggregate

- (b) Automobile Liability
\$1,000,000 Each accident on a combined single limit basis or
\$250,000 Bodily injury per person
\$500,000 Bodily injury per occurrence

\$100,000 Property damage

Coverage shall be on any vehicle used by the Consultant, its employees, agents, representatives in the course of the providing services under this Agreement. "Any vehicle" shall be any vehicle owned, hired and non-owned

(c) Worker's Compensation

Statutory limits

Employer's liability

\$100,000 Each accident/occurrence

\$100,000 Disease - per each employee

\$500,000 Disease - policy limit

This coverage may be written as follows:

Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas workers' Compensation Act (Art. 8308 – 1.01 et seq. Tex. Rev. Civ. Stat.) and minimum policy limits for Employers' Liability of \$100,000 each accident/occurrence, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee

(d) Professional Liability (Errors & Omissions)

\$1,000,000 Each Claim Limit

\$1,000,000 Aggregate Limit

Professional Liability coverage may be provided through an endorsement to the Commercial General Liability (CGL) policy, or a separate policy specific to Professional E&O. Either is acceptable if coverage meets all other requirements. Coverage shall be claims-made, and maintained for the duration of the contractual agreement and for two (2) years following completion of services provided. An annual certificate of insurance shall be submitted to the City to evidence coverage.

10.2 Certificates.

Certificates of Insurance evidencing that the Consultant has obtained all required insurance shall be delivered to the City prior to Consultant proceeding with any work pursuant to this Agreement. All policies shall be endorsed to name the City as an additional insured thereon, as its interests may appear. The term City shall include its employees, officers, officials, agent, and volunteers in respect to the contracted services. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement. A minimum of thirty (30) days notice of cancellation or reduction in limits of coverage shall be provided to the City. Ten (10) days notice shall be acceptable in the event of non-payment of premium. Such terms shall be endorsed onto Consultant's insurance policies. Notice shall be sent to the Risk Manager, City of Fort Worth, 1000 Throckmorton, Fort Worth, Texas 76102, with copies to the City Attorney at the same address.

11. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

Consultant agrees to comply with all applicable federal, state and local laws, ordinances, rules and regulations. If the City notifies Consultant of any violation of such laws, ordinances, rules or regulations, Consultant shall immediately desist from and correct the violation.

12. NON-DISCRIMINATION COVENANT.

Consultant, for itself, its personal representatives, assigns, subcontractors and successors in interest, as part of the consideration herein, agrees that in the performance of Consultant's duties and obligations hereunder, it shall not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. If any claim arises from an alleged violation of this non-discrimination covenant by Consultant, its personal representatives, assigns, subcontractors or successors in interest, Consultant agrees to assume such liability and to indemnify and defend the City and hold the City harmless from such claim.

13. NOTICES.

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To The CITY:

City of Fort Worth

Attn:

1000 Throckmorton

Fort Worth TX 76102-6311

Facsimile: (817) 392-8654

To CONSULTANT:

14. SOLICITATION OF EMPLOYEES.

Neither the City nor Consultant shall, during the term of this agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this agreement, without the prior written consent of the person's employer.

15. GOVERNMENTAL POWERS.

It is understood and agreed that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

16. NO WAIVER.

The failure of the City or Consultant to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of the City's or Consultant's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

17. GOVERNING LAW / VENUE.

This Agreement shall be construed in accordance with the internal laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought on the basis of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

18. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

19. FORCE MAJEURE.

The City and Consultant shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control (force majeure), including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes.

20. HEADINGS NOT CONTROLLING.

Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

21. REVIEW OF COUNSEL.

The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or exhibits hereto.

22. AMENDMENTS / MODIFICATIONS / EXTENSIONS.

No extension, modification or amendment of this Agreement shall be binding upon a party hereto unless such extension, modification, or amendment is set forth in a written instrument, which is executed by an authorized representative and delivered on behalf of such party.

23. ENTIRETY OF AGREEMENT.

This Agreement, including the schedule of exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Consultant, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

24. SIGNATURE AUTHORITY.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiples this _____ day of _____, 2010.

CITY OF FORT WORTH:

[NAME OF CONSULTANT]:

By: _____
Assistant City Manager

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
City Secretary

By: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Assistant City Attorney

CONTRACT AUTHORIZATION:

M&C: _____

Date Approved: _____