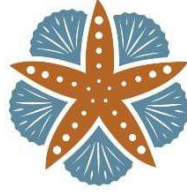


DRAFT



GALVESTON
★ ISLAND ★
Park Board of Trustees

**PARK BOARD OF TRUSTEES
OF THE CITY OF GALVESTON (PARK BOARD)
SEALED BID/QUALIFICATIONS REQUEST
(DRAFT)**

RFP Reference Number: 23-0217

Project Title: General Counsel Legal Services (DRAFT)

Sealed Bid Closing Date: March 3, 2023

Submittal: Five (5) paper copies; one (1) electronic copy

Contact: Schel Heydenburg, Administrative Services Manager
601 Tremont, Suite 201, Galveston Texas 77550
sheydenburg@visitgalveston.com

No Proposals submitted after the above deadline will be accepted.

Key Event Schedule:

RFP Release Date	2/17/2023
Deadline for Submittal of Written Questions	2/24/2023 @ 5:00 pm CST
Bids Due to and Opened by Park Board	3/3/2023 @ 2:00 pm CST
Anticipated First Round Interviews	3/20/2023
Anticipated Second Round Interviews	3/28/2023
Anticipated Park Board of Trustees Meeting	4/25/2023
Anticipated Award Date	4/25/2023

Project Title: General Counsel Legal Services
REQUEST FOR STATEMENT OF QUALIFICATIONS (DRAFT)

The Park Board of Trustees of the City of Galveston (Park Board) is accepting Sealed Proposals/Qualifications for General Counsel Legal Services.

All questions shall be in writing, submitted to: sheydenburg@visitgalveston.com. Questions are due **on or before February 24, 2023 @ 5:00pm CST**. Responses will be answered after the question deadline in the form of an Addendum. No responses will be given to questions submitted after the deadline.

Sealed Proposals/Qualifications must be submitted in writing to Schel Heydenburg Administrative Services Manager, Park Board of Trustees, 601 Tremont, Suite 201, Galveston, Texas 77550, **no later than 2:00pm CST on Friday, March 3, 2023**. Clearly mark your submission **“General Counsel Legal Services”**. Submittals will be opened immediately after at 601 Tremont, Galveston, Texas 77550. Submittals delivered via email or facsimile will not be accepted.

Introduction:

The Park Board of Trustees of the City of Galveston (Park Board) is seeking Qualifications for general counsel legal services to represent the Park Board in various legal matters. The selected candidate will act as the primary legal advisor to the Park Board of Trustees and staff, and will be responsible for providing legal advice, representation, and support in a wide range of areas.

The following document provides information relevant to the proposal process and specifications.

- A. Questions: Following are contacts for questions as identified.
- i. RFQ Clarifications: All questions related to requirements or processes of this RFQ should be submitted in writing to the contact person above.
 - ii. Scope of Service Questions: All questions related to the scope of services should be submitted in writing to the contact person(s) noted above.
 - iii. Replies: Responses to inquiries which directly affect an interpretation or effect a change to this RFQ will be issued in writing by addendum and posted to Park Board website. All such addenda issued by Park Board prior to the submittal deadline shall be considered part of the RFQ. The Park Board shall not be bound by any reply to an inquiry unless such reply is made by such formal written addendum.
 - iv. Acknowledgement of Addenda: The Respondent must acknowledge all addenda by signing and returning such document(s) or by initialing appropriate area of the Qualification document or the submittal will be marked Non-Responsive.
- C. Notification of Errors or Omissions: Respondents shall promptly notify the Park Board of any omissions, ambiguity, inconsistency, or error that they may discover upon examination of this RFQ. The Park Board shall not be responsible or liable for any errors and/or misrepresentation that result from the submittal which are inadvertently incomplete, ambiguous, inconsistent or obviously erroneous.

- D. Conflict of Interest Questionnaire (Form CIQ): A person or business, and their agents, who seek to contract or enter into an agreement with the Park Board, are required by Texas Local Government Code, Chapter 176, to file a conflict of interest questionnaire (FORM CIQ) which is found in Appendix C. The form must be filed with the Park Board no later than seven (7) days after the date the person or business begins contract discussions or negotiations with the Park Board, or submits an application, response to a Request for Qualification or Proposals, correspondence, or other writing related to any potential agreement with the Park Board. If no conflict exists, the offeror must mark the form Not Applicable or NA and return with the packet.
- E. Disclosure of Interested Parties Form 1295: A person or business, who enters into a contract with the Park Board, meeting the conditions according to Texas Local Government Code Sec. 2252.908, is required to file Form 1295 with Texas Ethics Commission. **This form is not required unless there is a contract between the vendor and the Park Board. Do not submit this form unless you receive an award letter from the Park Board.**

Contact Information:

Refer to the front cover of this document.

General Information

- A. Tax Exempt Status: Park Board purchases are exempt from State Sales Tax and Federal Excise Tax. Park Board will furnish Excise Tax Exemption Certificate upon request.
- B. Public Inspection of Proposals: The Park Board strictly adheres to the Texas Public Information Act (Texas Government Code Chapter 552.001, et seq.) and all other governing statutes, regulations, and laws regarding the disclosure of RFQ information. Qualification Documents are not available for public inspection until after the contract award. If the Respondent has notified the Park Board, in writing, that the Qualification Document contains trade secrets or confidential information, the Park Board will generally take reasonable steps to prevent disclosure of such information, in accordance with the Public Information Act. This is a statement of general policy only, and in no event shall the Park Board be liable for disclosure of such information by the Park Board in response to a request, regardless of the Park Board's failure to take any such reasonable steps, even if the Park Board is negligent in failing to do so.
- C. All Respondents are hereby put on notice that if the Respondent is awarded a contract for procurement of goods or services, the Park Board is entering into that contract in its governmental capacity, and not a proprietary capacity.
- D. The Park Board is required to verify, that company does not do business with Iran, Sudan, or any Foreign Terrorist Organization, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, and Section 2252.153.

RFQ Withdrawals and/or Amendments:

- A. RFQ Withdrawal: The Park Board reserves the right to withdraw this RFQ for any reason.
- B. RFQ Amendments: The Park Board reserves the right to amend any aspect of this RFQ by formal written Addendum prior to the submittal deadline and will endeavor to notify all potential Respondents that have notified the Park Board's identified project contact of their intent to

submit, but failure to notify shall impose no obligation or liability on the Park Board.

Estimated Quantities:

The Park Board does not guarantee to purchase any minimum or maximum quantity but does contemplate purchasing exclusively during the term of the contract from the successful vendor(s).

Minimum Criteria for Participation:

All bidders must be a legally constituted business or institution. Park Board reserves the right to waive any formalities and to accept or reject any and/ or all bids. Park Board is an Equal Opportunity Employer and encourages participation by local, underutilized, and minority businesses.

Qualification Submittal Requirements:

- A. **Submittal Packet** – How to submit: All Qualifications must be submitted in person or by mail at the addresses noted above. No submittal will be accepted electronically, either by fax or email. Qualifications submitted electronically will be marked non-responsive. Submittals shall be sealed and marked clearly with the Request for Qualifications number, Request for Qualifications name, closing date and time, on the outside of the package or envelope. Unidentifiable Qualifications will be unopened and marked as non-responsive.
- B. **Submittal Packet** – Required Contents: All items in this RFQ are considered part of the Qualification package. Submittals must include the package in its entirety; signed in the appropriate places by an authorized representative of the company with an original signature. Qualifications not including all of the above will be considered non- responsive. A Submittal requires an Original signed document, copies, and a media source. Please mark the Submittals “Original” and “Copy” and label the media source (preferred media is a jump/thumb drive). Please submit the original and correct number of copies indicated on the title page, or Submittal will be marked “Non-responsive”. Offerors must submit their Qualifications on the forms provided herein, otherwise, it will be marked non-responsive.
- C. **Submittal Deadline** - The deadline for submittal of Qualifications shall be as identified on the title of the Request for Qualifications. It is the Offeror’s responsibility to have the Qualification Documents, including Addenda, correctly submitted by the submittal deadline. No extensions will be granted, and no late Submittals will be accepted.
- D. **Proposals Received Late** - Respondents are encouraged to submit their Qualifications as soon as possible. The time and date of receipt recorded in the Finance Department or Reception shall be the official time of receipt. The Park Board is not responsible for late submission regardless of the reason. Late Submittals will not be considered under any circumstances.
- E. **Alterations or Withdrawals of Proposal Document** - Any submitted Qualifications may be withdrawn, or a revised Qualification substituted prior to the submittal deadline. Qualification Documents cannot be altered, amended, or withdrawn by the Respondent after the submittal deadline.
- F. **Proposal Document Format** - Responses should not be overly long or exceed thirty (30) pages in length, not including appendices or attachments, and should be formatted as follows: 8 ½ " x 11" paper, 12-pitch font size, and single-sided. Items such as resumes DO NOT count against the page limit. If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the SOQ, with specific references made to the section tab number, page, and/or paragraph where the supporting information can be found. SOQs are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFQ

- G. Questions and Responses - Questions regarding Qualifications must be addressed to the Park Board's identified project contact. The subject line must include the project title identified on the front cover of this document. The question deadline will be addressed in Scope of Services. Responses will be answered after the question deadline in the form of an Addendum. No responses will be given to questions submitted after the deadline. Questions submitted outside of the Park Board's identified project contact will not be answered and any communication with another department prior to award by Park Board of Trustees will disqualify a vendor from being considered for award.
- H. Pre-Proposal Conferences - The date and time of a pre-proposal conference, if necessary, will be found in Scope of Services.
- I. Validity Period - Once the submittal deadline has passed, any Qualification document shall constitute an irrevocable proposal to provide the commodities and/or services set forth in the Scope of Services at the price(s) shown in the Proposal Document. Such proposal shall be irrevocable until the earlier of the expiration of ninety (90) days from the submittal deadline, or until a contract has been awarded by the Park Board.

Evaluation Criteria

- A. Qualification Evaluation and Contract Award Process: An award of a contract to provide the goods or services specified herein will be made using competitive sealed qualifications, in accordance with Chapter 252 of the Texas Local Government Code, Chapter 2254 of the Texas Government Code, and with the Park Board's purchasing policy. The Park Board will evaluate all Submittals to determine which offerors are reasonably qualified for the award of the contract, applying the anticipated evaluation factors and emphasis to be placed on each factor as identified in the Scope of Services. A variety of factors may be used in the evaluation of the submitted Qualifications for this project. The Park Board may, at its option, conduct discussions with or accept Submittal revisions from any reasonably qualified Respondent. Discussions may not be initiated by offerors. **These discussions will be limited to issues and topics brought forth by the Park Board. Any attempt by respondent or vendor at deviating from the issues and topics to discuss other issues and topics concerning the Request for Qualifications brought forth by the Park Board shall be grounds for disqualification.** Vendors shall not contact any Park Board personnel during the Request for Qualifications process without the express permission from the Park Board's Park Board's identified project contact.
- B. Correspondence: All correspondence relating to this Request for Qualifications, from advertisement to award, shall be sent to the Park Board's Park Board's identified project contact. All presentations and/or meetings between the Park Board and the vendor relating to this Request for Qualifications shall be coordinated by the Park Board Park Board's identified project contact. The Park Board reserves the right to determine which submittal(s) provides the Park Board with the best value and which will be in the Park Board's best interest.
- C. Completeness: If the Qualification Document is incomplete or otherwise fails to conform to the requirements of the RFQ, the Park Board alone will determine whether the variance is so significant as to render the Submittal non-responsive.
- D. Ambiguity: Any ambiguity in the Submittal Document as a result of omission, error, lack of clarity or non-compliance by the Respondent with specifications, instructions and all

conditions shall be construed in the favor of the Park Board. In the event of a conflict between these standard RFQ requirements and details provided in Scope of Services OR Request for Qualifications, the mandatory signed documents shall prevail.

- E. Unit Prices and Extensions: If unit prices and their extensions do not coincide, the Park Board may accept the price most beneficial to the Park Board, and the Respondent will be bound thereby.
- F. Additional Information: Park Board may request any other information necessary to determine Respondent's ability to meet the minimum standards required by this RFQ.
- G. Partial Contract Award: Park Board reserves the right to award one contract for some or all the requirements proposed or award multiple contracts for various portions of the requirements to different Respondents based on the unit prices proposed in response to this request, or to reject any and all Submittals and re-solicit for Qualifications, as deemed to be in the best interest of Park Board.
- H. No Commitment: The Request for Qualifications does not commit the Park Board to award any costs or pay any costs, or to award any contract, or to pay any costs associated with or incurred in the preparation of a submittal to this request, or to procure or contract for services or supplies.
- I. Protest Procedures: Any actual or prospective Respondent who is allegedly involved with the solicitation or award of Proposal/bid/qualification may submit a protest to the decision. The protest must be submitted in writing to the Park Board of Trustees Controller within three working days after such aggrieved person knows of or should have known of the facts giving rise thereto. If the protest is not resolved by mutual agreement, the Controller will promptly issue a decision in writing to the protesting party.
 - i. All protest lodged by potential or actual Respondents, contractors or Respondents must be made in writing and contain the following information:
 1. Name, address, and telephone number of the protestor.
 2. Identification of the solicitation or contract number and time.
 3. A detailed statement of the protest's legal and factual grounds, including copies of relevant documents.
 4. Identification of the issue (s) to be resolved and statement of what relief is requested.
 5. Arguments and authorities in support of the protest.
 6. A statement that copies of the protest have been mailed or delivered to all interested parties in the Request for Qualifications process. In the case of Request for Qualifications, the Park Board's Controller shall ask the protestor to mail or deliver the protest to relevant parties.
 7. The Park Board's Executive Director has the authority to render the final determination regarding the protest. Any determination rendered by the Park Board's Executive Director will be final.
- J. Single Proposal Response: If only one Submittal or Proposal is received in response to the Request for Qualifications/Proposals, a detailed cost proposal may be requested of the single

contractor. A cost/price analysis and evaluation and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

- K. Re-Appropriation of Budget Items: The Park Board may reduce the funds allocated and the services required under this Agreement at its discretion. The Park Board shall notify Contractor in writing of this reduction. Contractor shall not perform any services subtracted from this Agreement. The de-obligation of funds does not require any formal amendment of this Agreement but shall be evidenced by a revised budget approved by Park Board of Trustees.
- L. Appropriation of Funds: The Park Board has established an appropriation (allocation) of funds for this project, if in the event that appropriated (allocated) funds are exhausted, the contractor's only remedy shall be suspension or termination of its performance under this contract and shall have no other remedy in law or in equity against the Park Board and no right to damages of any kind.
- M. Terminate for Cause: The occurrence of any one or more of the following events will justify termination of the contract by the Park Board for cause:
- i) The successful Respondent fails to perform in accordance with the provisions of these specifications; or
 - ii) The successful Respondent violates any of the provisions of these specifications;
- Or
- iii) The successful Respondent disregards laws or regulations of any public body having jurisdiction; or
 - iv) The successful Respondent transfers, assigns, or conveys any or all of its obligations or duties under the contract to another without written consent of the Park Board.
 - v) If one or more of the events identified in Subparagraphs M i) through iv) occurs, the Park Board may, terminate the contract by giving the successful Respondent seven (7) days written notice of such termination. In such case, the successful Respondent shall only be entitled to receive payment for goods and services provided before the effective date of termination. The successful Respondent shall not receive any payment on account of loss of anticipated profits or revenue or other economic loss resulting from such termination.
 - vi) When the contract has been so terminated by the Park Board, such termination shall not affect any rights or remedies of the Park Board then existing or which may thereafter accrue.
- N. Terminate for Convenience: This contract may be cancelled or terminated at any time by giving vendor thirty (30) days written notice. A vendor may be entitled to payment for services actually performed prior to termination; to the extent said services are satisfactory.
- O. System for Award Management (SAM.GOV): All vendors contracting with the Park Board may be required to register or have an active registration with the System for Award Management

(SAM.gov). Registration is free. The System for Award Management (SAM) is the official registration required prior to bidding on a contract with any federal government agency, including local governments who receive federal funds. Registration must be completed prior to contract award by the Park Board of Trustees. Registering online is accomplished on the SAM website here: <https://www.sam.gov/portal/SAM/##11#1>.

- ii. In evaluating proposals submitted pursuant to this request, Park Board places high value on the following factors, not necessarily in order of importance:
 - a. Approaches in methodology with respect to the anticipated scope of services that demonstrate maximum comprehension.
 - b. Experience of firm and employees to be assigned to the project in general and in particular, providing services to destination marketing organizations.
 - c. Quality of work as demonstrated in submitted work samples.
 - d. Demonstrated knowledge of the importance of the tourism industry and its impacts on a micro and macro level.
 - e. Demonstrated experience or credentials in crisis communication and/ or management of institutional reputations.
 - f. Experience of the firm with comparable projects.
 - g. Destination references.
 - h. Innovative or outstanding work by respondent that demonstrates the firm's unique qualifications to provide marketing representation and creative services.
 - i. Inclusion of additional opportunities outside the stated scope of work.
 - j. Projected cost of services.
 - k. Once evaluated by staff and a select group of local stakeholders, respondents may be asked to make an oral presentation to the Tourism Development Advisory Committee. The purpose of the presentations is to allow staff and/ or committee members to answer any further questions.

Pursuant to Sec. 2-341 of the Park Board Code – Declaration of Policy

A. It is the policy of the Park Board to stimulate growth of local minority and women- owned business enterprise (M/WBE) by encouraging their participation in all phases of its contract and procurement activity and by affording them the opportunity to compete for all Park Board contracts. The purpose and objectives of this article are to:

- i. Increase the capacity of local M/WBE's to provide products and services.
- ii. Increase the opportunities for local M/WBE's to expand their business with the Park Board and other public and private sector business entities.

B. Provided, however, nothing herein shall require the Park Board to award contracts for services or procurements to a M/WBE which is not also the lowest responsive and responsible Respondent and otherwise qualified unless the Park Board may otherwise lawfully award the contract to someone other than the lowest responsive, responsible Respondent.

Right to Reject Proposals

Submission of a proposal indicates acceptance by the firm of the conditions contained in this Request for Proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Park Board and the firm selected. The Park Board reserves the right without prejudice to reject any or all proposals.

REQUIRED SUBMITTAL INFORMATION

IN ORDER FOR A SUBMITTAL TO BE CONSIDERED COMPLETE, AND TO BE EVALUATED FOR A CONTRACT AWARD BY THE PARK BOARD, RESPONDENT MUST SUBMIT ALL OF THE FOLLOWING INFORMATION

INSTRUCTIONS FOR RESPONDING TO PARK BOARD RFQ

THE FOLLOWING ITEMS MUST BE INCLUDED IN YOUR STATEMENT OF QUALIFICATIONS IN THE FOLLOWING ORDER.

Minimum Qualifications

Respondents must meet the minimum qualifications listed below. Furthermore, RFQ Responses that appear unrealistic in terms of technical capability, financial commitment, lack of technical competence, or that indicate a failure to comprehend the risk and complexity of a potential contract may be rejected.

- Respondent must be licensed to practice law in the state of Texas.
- Respondent shall have demonstrated experience in areas of law related to this RFQ.

REQUIRED RESPONDENT INFORMATION

Respondent must provide satisfactory evidence of its ability to manage and coordinate the types of activities described in the RFQ and to produce the specified product or services on time. In addition to providing complete information regarding how the Respondent meets *or* exceeds the minimum qualifications the Respondent must provide the following information formatted in the Response as follows:

Section 1 Company Narrative

The year company was founded, background and history (and parent company, if applicable) and, if incorporated, the state in which the company is incorporated and the date of incorporation. If company is an out-of-state Respondent, a Certificate of Authority to do business in Texas from the Secretary of State must be provided as an Appendix. The Company ownership structure (Corporation, partnership, LLC, or sole proprietor) including all wholly owned subsidiaries, affiliated companies, or joint ventures. If Respondent is an affiliate of another company, or has a joint venture or strategic alliance with another company, list companies, please identify the parent company, and former parent company's name (if any), percentage of ownership; Location of company headquarters and location of the primary office(s) that will service any contract resulting from this RFQ, in addition to a listing of offices intended to support the contract with city, state, telephone number, email contact address, and total number of personnel at each of these offices.

Section 2 Respondent Justification

Why Respondent is qualified to provide the requested services focusing on the company's key strengths and advantage to the Park Board to select the Respondent. Geographical service area and limitations (if any) within the proposed project's service area.

Section 3 Respondent Logistics / Staffing Profile

Name, titles, addresses, telephone numbers, and email addresses of not more than two (2) primary company contacts. Name, address, telephone number, and email address of the Respondent's point of contact for a contract resulting from this RFQ. Respondent should provide brief resumes for key staff to be responsible for the performance of any contract resulting from this RFQ. The staff profile(s) should describe personnel by discipline.

Section 4 Project Schedule and Fee Structure

Respondent must provide all expected retainer fees, hourly rates for all staff involved, preferred payment schedule, and hourly rates for additional professional services should they be deemed necessary.

Section 5 Demonstrated Experience

Respondent shall provide a minimum of three (3) client specific references relating to their provision of legal services. Preference is given to legal services rendered within the State of Texas and more specifically in Galveston County, for state, federal, and/or local governmental clients, undertaken within the last five (5) years. Respondents shall be asked to provide current contact information for each specific reference provided. This information shall include:

- Client names;
- Brief service description (including location and type of service);
- Service dates (starting and ending) and proposed timelines, delays etc.;
- Staff assigned to referenced engagement who will be designated for work associated with this RFQ;
- Client manager and owner name, telephone number, fax number, and email address.

Section 6 Litigation History

Respondent must disclose any civil or criminal litigation or investigation pending over the last three (3) years that involves the firm or its principals in which Respondent has been judged guilty or liable. Failure to comply with the terms of this provision may disqualify any Respondent. The RFQ Response may be rejected based upon Respondent's prior history with any Federal Agency, the State of Texas, the Park Board of Galveston, the Galveston Island Park Board of Trustees, or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations. Respondent shall inform the Park Board if it or a potential sub-consultant is currently or has ever been listed on the federal debarred list.

Section 7 Sample Standard Terms and Conditions

Respondent must include a current sample copy of their company's typical contract Terms and Conditions.

Section 8 Conflicts

Respondent must disclose any potential conflict of interest it may have in providing the services described in this RFP, including all existing or prior arrangements. Please include any activities of affiliated or parent organizations and individuals who may be assigned to manage this account.

Scope of Work:

The Park Board of Trustees of the City of Galveston (Park Board) seeks Qualifications for general counsel legal services to represent the Park Board in various legal matters. The selected candidate will act as the primary legal advisor to the Park Board of Trustees and staff, and will be responsible for providing legal advice, representation, and support in a wide range of areas including, but not limited to:

- Contracts and agreements
- Administrative law
- Environmental regulations
- Municipal law

- Land use and zoning
- Coastal preservation
- Employment law
- Litigation
- Public records and open meetings

Specific scope of work for this Request for Qualifications includes:

- Review and draft agreements, contracts, ordinances, resolutions, interlocal agreements, and other legal instrument in which the Park Board has an interest.
- Attend regular Park Board meetings and Committee meetings.
- Attend special Park Board meetings outside of the normal schedule.
- Attend Park Board Executive Officer meetings and joint City Council-Park Board meetings.
- Provide legal advice, opinions, and guidance as needed at the above-mentioned meetings, including review and approve agendas to ensure compliance with the Texas Open Meetings Act.
- Provide timely legal advice and/or legal opinions on a range of matters as requested by the CEO, CFO, and Park Board Trustees.
- Provide legal advice and/or legal opinions as needed on applicable local, State, and Federal laws, and other applicable documents, rules, and regulations.
- Inform the Park Board of new or proposed local, State, and Federal legislation affecting the Park Board.
- Ensure compliance of contracts with applicable rules and regulations.
- Negotiate and assist with contract disputes.
- Represent the Park Board in litigation and legal proceedings as directed by the Park Board.
- Provide direction in matters relating to Texas Employment Law and related issues.

The Park Board may expand the scope of services as necessary to conduct the business of the Park Board.

CONTRACT TERMS AND CONDITIONS

EXCEPT WHERE RESPONDENT MAKES SPECIFIC EXCEPTION IN THE SUBMITTED QUALIFICATION, ANY CONTRACT RESULTING FROM THIS RFQ WILL CONTAIN THE FOLLOWING TERMS AND CONDITIONS, WHICH RESPONDENT HEREBY ACKNOWLEDGES, AND TO WHICH RESPONDENT AGREES BY SUBMITTING A QUALIFICATION:

1. Delivery of Products and/or Services

- A. Payment Terms: Unless otherwise specified in the Scope of Services or otherwise agreed to in writing by the Park Board, payment terms for the Park Board are Net 30 days upon receipt of invoice. Refer to Texas Local Government Code 2251, Payment for Goods and Services. Otherwise known as the Prompt Payment Act. Send all invoices to Park Board Attention: Accounts Payable, 601 Tremont, Suite 201, Galveston, Texas 77550 or email the identified project contact.
- B. Warranty of Products and Services: All products furnished under this contract shall be warranted to be merchantable and good quality and fit for the purposes intended as described in this Submittal, to the satisfaction of Park Board and in accordance with the specifications, terms, and conditions of the Scope of Services, and all services performed shall be warranted to be of a good and workmanlike quality, in addition to, and not in lieu of, any other express written warranties provided.

- C. Late Delivery or Performance: If Respondent fails to deliver acceptable goods or services within the timeframes established in the Project Schedule, the Park Board shall be authorized to purchase the goods or services from another source and assess any increase in costs to the defaulting Respondent, who agrees to pay such costs within ten days of invoice.
- D. FOB (delivery charges): All products offered shall be FOB final destination, with all delivery charges to be prepaid by the Respondent. The Park Board does not accept C.O.D. or collect shipments. The contract price shall include all charges, including delivery, installation and set-up fees. All packing, crating, or other debris resulting from the delivery or set-up of the commodity purchased shall be removed and properly disposed by the successful Respondent at no additional cost to the Park Board.
- E. Title to Goods and Risk of Loss: For goods to be provided by Respondents hereunder, if any, the title and risk of loss of the goods shall not pass to Park Board until Park Board actually receives, takes possession, and accepts the goods and the installation of such goods, has tested the system, and determined that it is in good and acceptable working order.
- F. Force Majeure: If by reason of Force Majeure either party shall be rendered unable, wholly or in part, to carry out its responsibilities under this contract by any occurrence by reason of Force Majeure, then the party unable to carry out its responsibility shall give the other party notice and full particulars of such Force Majeure in writing within a reasonable time after the occurrence of the event, and such notice shall suspend the party's responsibility for the continuance of the Forced Majeure claimed, but for no longer period. Force Majeure means acts of God, floods, hurricanes, tropical storms, tornadoes, earthquakes, or other natural disasters, acts of public enemy, acts of terrorism, sovereign conduct, riots, civil commotion, strikes or lockouts, and other causes that are not occasioned by either Party's conduct which by the exercise of due diligence the party is unable to overcome and which substantially interferes with operations.
- G. Liquidated Damages: The parties agree that, if the Project is not completed within the time specified plus any extensions of time allowed pursuant thereto, the actual damages sustained by the Owner because of any such delay will be uncertain and difficult of ascertainment, and that the reasonably foreseeable value of the use of said project by the Owner would be the sum of \$250.00 per calendar day. The Contractor therefore agrees to pay, and the Owner agrees to accept, as liquidated damages and not as a penalty, the sum of \$250.00 per calendar pay for each day's delay in fully completing said project beyond the time specified in the Contract and any extensions of such time allowed there under.
- H. Change Orders: per Texas Local Government Code Sec. 252.048. CHANGE ORDERS. (a) If changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the governing body of the municipality may approve change orders making the changes.
- (b) The total contract price may not be increased because of the changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants.

(c) If a change order involves a decrease or an increase of \$50,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the change orders.

(c-1) If a change order for a public works contract in a municipality with a population of 300,000 or more involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, the governing body of the municipality may grant general authority to an administrative official of the municipality to approve the change order.

(d) The original contract price may not be increased under this section by more than 25 percent. The original contract price may not be decreased under this section by more than 25 percent without the consent of the contractor.

2. **Miscellaneous**

- A. Independent Contractor: Respondent agrees that Respondent and Respondent's employees and agents have no employer-employee relationship with Park Board. Respondent agrees that if Respondent is selected and awarded a contract, Park Board shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, Federal or State unemployment taxes, income tax withholding, Workers Compensation Insurance payments, or any other insurance payments, nor will Park Board furnish any medical or retirement benefits or any paid vacation or sick leave.
- B. Assignments: The rights and duties awarded the successful Respondent shall not be assigned to another without the written consent of the Executive Director. Such consent shall not relieve the assigner of liability in the event of default by the assignee.
- C. Liens: Respondent shall indemnify and save harmless the Park Board against any and all liens and encumbrances for all labor, goods, and services which may be provided to the Park Board by Respondent or Respondent's vendor(s), and if the Park Board requests, a proper release of all liens or satisfactory evidence of freedom from liens shall be delivered to the Park Board.
- D. Gratuities / Bribes: Respondent certifies that no bribes in the form of entertainment, gifts, or otherwise, were offered or given by the successful Respondent, or its agent or representative, to any Park Board officer, employee or elected representative, with respect to this RFQ or any contract with the Park Board, and that if any such bribe is found to have been made this shall be grounds for voiding of the contract
- E. Financial Participation: Respondent certifies that it has not received compensation from the Park Board to participate in preparing the specifications or RFQ on which the Request for Qualifications is based and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
- F. Required Licenses: Respondent certifies that he holds all licenses required by the State of Texas for a provider of the goods and/or services described by the Scope of Services herein.
- G. Authority to Submit Proposal and Enter Contract: The person signing on behalf of Respondent certifies that the signer has authority to submit the Qualification on behalf of the Respondent and to bind the Respondent to any resulting contract.
- H. Authority to Enter Contract – Park Board: The Park Board Executive Director is the only person authorized to execute contracts on behalf of the Park Board. All signature pages must include "approved as to form" and be signed by the Park Board Executive Director will execute the contract. Neither department heads nor elected/appointed officials are authorized to sign any

binding contracts or agreements prior to being properly placed on the Park Board of Trustees agenda and approved in an open meeting. Department heads and other elected/appointed officials are not authorized to enter into any type of agreement or contract on behalf of the Park Board. Only the Executive Director may enter into a contract on behalf of the Park Board as authorized by Trustees. Additionally, department heads and other elected/appointed officials are not authorized to agree to any type of supplemental agreements or contracts for goods or services. Supplemental agreements are subject to review by the Park Board's Legal Department prior to being signed by the Executive Director or designee.

- I. Compliance with Applicable Law: Respondent agrees that the contract will be subject to, and Respondent will strictly comply with, all applicable federal, state, and local laws, ordinances, rules, and regulations.
- J. Non-Discrimination: During the performance of this contract, the contractor agrees as follows: (1) The contractor will not discriminate against any employee or applicant for employment because of race, age, disability, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants and employees are not discriminated against on the basis of race, age, disability, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, age, disability, color, religion, sex or national origin. (3) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

3. Financial Responsibility Provisions

- A. Insurance: The Bidder, consistent with its status as an independent contractor, shall carry, and shall require any of its subcontractors to carry, at least the following insurance in such form, with such companies, and in such amounts (unless otherwise specified in the Scope of Services) as Park Board may require, naming the Park Board and the City of Galveston as the additional insured:
 - i. Worker's Compensation and Employer's Liability insurance, including All States Endorsement, to the extent required by federal law and complying with the laws of the State of Texas;
 - ii. Commercial General Liability insurance for at least One Million Dollars (\$1,000,000) on a per occurrence basis, with a Two Million (\$2,000,000) aggregate. Blanket Contractual Liability, Broad Form Property Damage, Personal Injury, Completed Operations/Products Liability, Premises Liability, Medical Payments, and Broad Form General Liability

- Endorsements;
- iii. Comprehensive Automobile Liability insurance covering all owned, non-owned or hired automobiles to be used by the Contractor, with coverage at the minimum State of Texas requirements;
- iv. Professional Liability, Errors and Omissions in an amount to be determined in the Scope of Services. Insurance coverage shall be on an “occurrence basis”

B. Indemnification: In Accordance with State Law, the contractor agrees to indemnify, save, and hold harmless the Park Board, its employees, officials, and agents from any and all claims, actions, damages, lawsuits, proceedings, judgements, or liabilities, for personal injury, death, or property damage resulting from the acts or omissions of anyone under the contractor’s supervision or control.

In the event of any cause of action or claim asserted by a party to this agreement or any third party, the Park Board will provide the contractor with timely notice of such claim, dispute or notice. Thereafter, the contractor shall at its own expense, faithfully and completely defend and protect the Park Board against any and all liabilities arising from this claim, cause of action, or notice.

- i. Indemnity for Intellectual Property: Bidder hereby warrants that the use or sale of the products, materials and services delivered hereunder will not infringe on the rights of any trade secrets, patent, copyright, registered trademark, or other intellectual property by right covering such materials and the successful Bidder agrees to indemnify and hold harmless the Park Board for any and all costs, expenses, judgments, and damages which the Park Board may have to pay or incur.

C. Bond Requirements: If applicable, per the Scope of Services, prior to the commencement of work on this Project, Bidder shall deliver to the Park Board the following bonds issued by a good and sufficient surety licensed by the State of Texas and satisfactory to the Park Board:

- i. Bid bonds are required for bids over \$25,000.00 in the amount of 5% of the total bid amount.
- ii. A payment bond in the amount of 100% of the total contract amount insuring the full and prompt payment of all persons performing labor and/or furnishing materials in connection with this Project;
- iii. A performance bond in the amount of 100% of the total contract amount insuring full, faithful, and prompt performance of the responsibilities contained in this contract within the time parameters provided herein; and
- iv. A maintenance bond insuring full and prompt maintenance, repair and/or replacement of the goods to be provided by Bidder for a period of two years from date of acceptance by the Park Board.

REQUIRED FORMS

PROPOSAL INFORMATION

Having read and understood the instructions, terms, conditions and specifications, we submit the following:

Witness

Company Name

Date

Authorized Representative Signature

Printed Name

Title

Correspondence Address

Remit Address

City, State, Zip Code

City, State, Zip Code

Tax Identification Number (TIN/FIEN/SSN)

Telephone Number

Fax Number

Email address

THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE PACKAGE

DRAFT

CONFLICT OF INTEREST QUESTIONNAIRE For vendor or other person doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the 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 knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>	OFFICE USE ONLY	
<p>1 Name of person who has a business relationship with local governmental entity.</p>	Date Received	
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p style="text-align: center;">(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>		
<p>3 Name of local government officer with whom filer has employment or business relationship.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p> <p>This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>D. Describe each employment or business relationship with the local government officer named in this section.</p>		
<p>4</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature of person doing business with the governmental entity Date</p>		

Adopted 06/29/2007

How do I go about filling out the Conflict of Interest Questionnaire form?

Each number below corresponds with the number on FORM CIQ 2:

1. Fill in the full name of the person who is trying to do business with the City. If the person is a corporation, partnership, etc., then it is the name of that corporation, partnership, etc., that is required on Form CIQ.
2. Check box if the form is an update to a form previously completed. Updates are required by the 7th business day after an event that makes a statement in a previously filed questionnaire incomplete or inaccurate. Updates are also required by September 1 of each year in which the person submits a proposal, bid or response to the City of Waco or begins contract discussions or negotiations with the City.
3. Complete this Section by listing the name of the local government officer (member of City Council or City Manager) with whom there is an affiliation to or business relationship and you checked the "Yes" box in Section 3 A, B, or C.
If there is more than one local government officer (City Council or City Manager) with whom there is an affiliation or business relationship, more than one page two may be needed to provide information on each local government officer.
4. State whether the local government officer named on the form receives or is likely to receive taxable income, other than investment income, from the vendor filing the questionnaire.
5. State whether the filer receives or is likely to receive taxable income, other than investment income, from or at the direction of the local government officer named on the form AND the taxable income is not received from the local governmental entity.
6. State whether the filer is employed by a corporation or other business entity with which the local government officer serves as an officer or director or holds an ownership interest of 10% or more.
7. Describe each employment or business relationship with the local government officer named on the form.
8. Signature box. Person completing form must date and sign the form. If the form is being completed for a corporation, partnerships, etc., the person signing should be someone who is authorized to act on behalf of the corporation, partnership, etc.

A signature is required in box #4 regardless of any other entry on the form.

A copy of Chapter 176 of the Texas Local Government Code can be found at:

<http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.176.htm>

House Bills 13, 19 & 89 Verification

Pursuant to Senate Bill 13 of the 87th regular Texas Legislature session:

Verification Regarding Boycotting Energy Companies – Pursuant to Chapter 2274, Texas Government Code, Contractor verifies (1) it does not boycott energy companies, and (2) it will not boycott energy companies during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate. (Note: This provision only applies in a contract that (1) has a value of \$100,000 or more that is to be paid wholly or partly from public funds and (2) is with a for-profit entity, not including a sole proprietorship, which has ten (10) or more full-time employees.)

Pursuant to Senate Bill 19 of the 87th regular Texas Legislature session:

Discrimination Against Firearm Entities – In accordance with Texas Government Code Chapter 2274, Contractor verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. This section only applies if: (i) Contractor has ten (10) or more full-time employees and (ii) this Agreement has a value of \$100,000 or more to be paid under the terms of this Agreement; and does not apply: (i) if Contractor is a sole proprietor, a non-profit entity, or a governmental entity; (ii) to a contract with a sole-source provider; or (iii) to a contract for which none of the bids from a company were able to provide the required certification.

Pursuant to Sections 2270.001, 2270.002, 808.001, Texas Government Code:

1. *“Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
2. *“Company” has the meaning assigned by Section 808.001, except that the term does not include a sole proprietorship.*
3. *Section only applies to a contract that is between a governmental entity and a company with 10 or more full-time employees; and has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.*

I, _____ (Person name), the undersigned representative of (Company or

Business Name) _____ (hereinafter referred to as Company)

being an adult over the age of eighteen (18) years of age, do hereby depose and verify under oath that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270; depose and verify under oath that the Company, under the provisions of Subtitle A, Title 8, Government Code, is amended by adding Chapter 809; do hereby depose and verify under oath that the Company, under the provisions of Subtitle F, Title 10, Government Code, is amended by adding Chapter 2274 will not discriminate and/or boycott any of these provisions outlined and defined in House Bills 13, 19 and 89.

DATE

SIGNATURE OF COMPANY REPRESENTATIVE

THIS DOCUMENT MUST BE COMPLETED AND SUBMITTED AS IT IS A PART OF THE SOLICITATION PACKAGE.

Property Tax Statement

**FAILURE TO COMPLETE THIS ATTACHMENT SHALL RESULT IN DEEMING YOUR BID OR PROPOSAL
"NON-RESPONSIVE."**

The City of Galveston & Park Board, Texas has adopted the following policy:

The City of Galveston and Park Board will not do business with any person or business that owes delinquent property taxes to the City.

Please indicate whether you or your company, owe delinquent property taxes to the City whether an assumed name, partnership, corporation, or any other legal form.

_____ I do not owe the City property taxes that are delinquent.

_____ I owe City property taxes that are delinquent on property located at

Proposer's Printed or Typed Name

Proposer's Signature

Date

Trade Secrets and/or Confidential Information

Trade Secrets and/or Confidential Information: This Submittal does OR does not contain trade secrets and/or confidential information. If applicable, describe such trade secrets and confidential information, and the basis for your assertion that such material qualifies for legal protection from disclosure.

Confidentiality of Information: Pursuant to State Law, submittals will be open in a manner that avoids disclosure of the contents to competing offerors and keeps them secret during negotiations.

Bidder's Printed or Typed Name

Bidder's Signature

Date

THIS DOCUMENT MUST BE COMPLETED, SIGNED, AND SUBMITTED AS IT IS A PART OF THE SOLICITATION PACKAGE.

Nepotism Statement

FAILURE TO COMPLETE THIS ATTACHMENT SHALL RESULT IN DEEMING YOUR BID OR PROPOSAL "NON-RESPONSIVE."

The Bidder or Proposer or any officer, if the Bidder or Proposer is other than an individual, shall state whether Bidder or Proposer has a relationship, either by blood or marriage, with any official or employee of the Park Board by completing the following:

If the Proposer or Bidder is an individual:

_____ I am not related by blood or marriage to any official or employee of the Park Board

_____ I am related by blood or marriage to the following official(s) or employee(s) of the Park Board

Name and title of Park Board Official

Or employee: _____

Relationship: _____

If the Bidder or Proposer is **NOT** an individual:

_____ The officers of the company submitting this bid or proposal are not related by _____ blood or marriage to any official or employee of the Park Board.

_____ The officers of the company submitting this Proposal are related by blood or marriage to the following official(s) or employee(s) of the Park Board.

Name and title of officer: _____

Employee and title of Park Board Official or Employee: _____

Relationship: _____

THIS DOCUMENT MUST BE COMPLETED AND SUBMITTED AS IT IS A PART OF THE SOLICITATION PACKAGE.

Non-Collusion Statement

THE UNDERSIGNED AFFIRM THAT THEY ARE DULY AUTHORIZED TO EXECUTE THIS CONTRACT, THAT THIS COMPANY, FIRM, PARTNERSHIP OR INDIVIDUAL HAS NOT PREPARED THIS PROPOSAL IN COLLUSION WITH ANY OTHER PROPOSER, AND THAT THE CONTENTS OF THIS PROPOSAL AS TO PRICES, TERMS OR CONDITIONS OF SAID PROPOSAL HAVE NOT BEEN COMMUNICATED BY THE UNDERSIGNED NOR BY ANY EMPLOYEE OR AGENT TO ANY OTHER PERSON ENGAGED IN THIS TYPE OF BUSINESS PRIOR TO THE OFFICIAL OPENING OF THIS PROPOSAL.

PROPOSER _____

ADDRESS _____

PHONE _____

FAX _____

PROPOSER (SIGNATURE) _____

PROPOSER (PRINTED NAME) _____

POSITION WITH COMPANY _____

SIGNATURE OF COMPANY OFFICIAL
AUTHORIZING THIS PROPOSAL _____

COMPANY OFFICIAL
(PRINTED NAME) _____

OFFICIAL POSITION _____

THIS DOCUMENT MUST BE COMPLETED, SIGNED, AND SUBMITTED AS IT IS A PART OF THE SOLICITATION PACKAGE.

Document 00435

DOCUMENT 00435, REQUIRED BY ALL BIDDERS WHO WILL RECEIVE FEDERAL FUNDS IN PAYMENT OF PROCUREMENT.

PROPOSER'S CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION (49 CFR PART 29)

The undersigned certifies, by submission of this proposal or acceptance of this contract, that neither Contractor nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction by any Federal department or agency. Proposer agrees that by submitting this proposal that Proposer will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Proposer or any lower tier participant is unable to certify to this statement, that participant shall attach an explanation to this document.

Certification-the above information is true and complete to the best of my knowledge and belief.

(Printed or typed Name of Signatory)

(Signature)

(Date)

NOTE: The penalty for making false statements in offers is prescribed in **18 U.S.C. 1001**

END OF DOCUMENT 00435-FAA

THIS DOCUMENT MUST BE COMPLETED, SIGNED, AND SUBMITTED AS IT IS A PART OF THE SOLICITATION PACKAGE.