

CITY OF IRVING
SOLICITATION OVERVIEW

The City of Irving is soliciting bids for:

TITLE: Tree Mitigation Program
ITB #: 025D-10
Commodity: 9060 Trees/ 1120 Landscaping
Due Date: 3:00 p.m., Tuesday, October 27, 2009
Location: City of Irving, Purchasing Division
845 W. Irving Blvd.
Irving, Texas 75060

There will be no pre-bid conference for this ITB

Public Bid Opening:

There will be a public bid opening in the Purchasing Division Conference Room immediately following the bid due time/date. Interested parties are invited to attend.

Written Questions:

Submit written questions to:

Darlene Rush, Senior Purchasing Agent, drush@cityofirving.org

Questions may be submitted through 3:00 p.m., Tuesday, October 20, 2009.

Questions of a substantial nature will be addressed in an addendum, posted on the City's Purchasing Web page for all interested parties.

CITY OF IRVING

TABLE OF CONTENTS for ITB 015D-10

Solicitation Overview	1
Table of Contents	2
Specifications	3-6
Bid Pricing Page.....	7-8
Evaluation of Bids	8
Summary Response Page	9
Attachment A-1, Standard Terms and Conditions	10-14
Attachment B-1, General Instructions to Bidders	15-16
Attachment B-2, Special Instructions to Bidders	17
Attachment B-3, Checklist for Bidders.....	18
Attachment B-5, Map Locating Purchasing Division.....	19
Attachment C-1, Conflict of Interest Instructions	20
Attachment C-2, Conflict of Interest Statement	21-22
Attachment D-1, Insurance Requirements for Services.....	23-25
Attachment D-4, Insurance Affidavit.....	26
Attachment D-6, Indemnification by Contractor	27
Attachment D-7, Contractor’s Certification of Workers’ Comp.....	28
Attachment E-1, Environmental Commitment	29
Attachment E-2, Environmental Stewardship	30
Attachment F-1, Good Faith Effort Program Overview	31
Attachment F-2, Good Faith Effort Affidavit	32
Attachment H-1, Instructions for Standard Contract	33
Attachment H-2, Standard Contract and Acknowledgement	34-35
Attachment I, Tree Mitigation Program.....	36-40

SPECIFICATIONS

CONTRACT PERIOD

This contract begins **January 1, 2010, and runs through December 31, 2010.**

RENEWAL OPTIONS

This contract is subject to consideration for two renewals with each renewal being for a two-year period of time and under the same terms and conditions as awarded or with negotiated lower pricing. Each renewal option may be exercised by the City of Irving with written agreement by contractor.

INTENT

The purpose of this bid is to award an annual contract for the provision and installation of trees according to the City of Irving's Tree Mitigation Policy within the City of Irving, Texas. The City of Irving estimates 100 vouchers will be issued to residents during the course of the contract period for a total annual estimate of 100 trees. A copy of the Tree Mitigation Policy is attached (Attachment M).

It is also the intent under these specifications that the Vendor shall provide a complete and professional job. The omission of specific reference to any materials or labor necessary for such a job shall not be interpreted as relieving the Vendor from furnishing such materials or labor under the quoted price.

The Vendor shall be responsible for protection of all private and City property against damages caused by performance of his/her employees. Under this contract, any damages incurred shall be at the expense of the Vendor.

It is also the intent that as a result of this bid, a sizeable selection from the Protected Tree Species List is available for selection for planting. It is intended that the voucher will qualify the property owner for one of six to twelve of the most common, desirable, readily available tree species from the Protected Tree Species List (base tree) and the prices quoted for the remaining tree species will be used in the event a property owner chooses to upgrade to a more expensive protected tree species.

Each voucher will cover the cost of one base tree. Vouchers may be consolidated to give credit for more expensive tree species or larger trees. The base value of a voucher will be determined based on the bids received on the six to twelve of the most common, desirable, readily available tree species. This base value of the tree voucher will be used when computing credit toward the purchase of larger or more expensive tree species. In no event will a refund of money be given to the property owner and in the event that consolidated vouchers exceed the value of tree species listed, payment will be based on the actual tree species provided, not the value of the voucher.

SCOPE

Vendor will furnish all labor, material, services, transportation and equipment necessary to complete planting work described in the following pages and according to the Tree Mitigation Policy.

All Vendors submitting a bid proposal, shall take into consideration that the plantings will occur according to the Tree Mitigation Policy within the first 25' of the property, unless otherwise specified, but not in the right-of-way of the adjacent roadway. No extra compensation will be allowed for any work made necessary by unusual conditions or obstacles encountered during the process of the work.

Property owner will identify tree planting locations at the property listed on the voucher. It is the vendor's responsibility to verify planting location is within the guidelines of the Tree Mitigation Policy. Variance allowed only with prior approval of Tree Mitigation Program Coordinator.

PROCEDURE

Upon loss of a qualifying tree by the Property Owner, the City of Irving Tree Replacement Voucher (sample voucher attached) is issued by the City of Irving according to the Tree Mitigation Policy. One copy is issued to the Property Owner, one copy is issued to the vendor, and one copy is kept by the City of Irving. The property owner (voucher holder) will make a selection of a replacement tree from the bid list provided to the property owner by the City. The property owner is responsible for marking the proposed tree planting location and for contacting the vendor to arrange for the tree planting. Upon successful planting of the tree to the specifications herein, the property owner will sign the voucher and the vendor will return the signed voucher and invoice detailing the price, type, size and number of trees planted to the City of Irving for payment.

TREE SPECIFICATIONS

All trees shall meet or exceed the specifications as set forth in the latest edition of "American Standard for Nursery Stock" as well as conform to the standards recognized by the Texas Association of Nurseryman.

Unless otherwise specified, all trees shall be a single trunk with a dominate leader equal, balanced. Symmetrical branching; free of branches to a point not more nor less than about 60% of the trees height.

Trees shall have normal, well-developed branches and a vigorous root system. They shall be healthy, vigorous trees free from defects, decay, disfiguring growth habits, sun-scald injuries, abrasions of the bark, plant diseases, insect nests and eggs, borers and all forms of infestations or objectionable disfigurements.

Balled-and-burlapped (B&B) and container-grown trees will conform to standards set out in Section 16 of the "Forestry Handbook, 2nd Edition" and stated below:

Tree Trunk Size or Caliper	Minimum Ball Diameter for <u>B&B Trees</u>	Minimum Volume for Container- Grown Trees
4"	36 inches	65 Gallon

Guarantee: All trees must be guaranteed for six months after final acceptance. Guarantee excludes replacement of plants because of injury by storm, vandalism, and natural causes not within control of the Vendor. The vendor should instruct the property owner of the proper care of the tree(s). The property owner is responsible for proper care.

Replacement: Replacements shall be made at no cost, within four weeks of a specified date mutually acceptable to both parties. All replacement trees will be of the same size, variety, and quality as the original. Substitutions may be made with prior approval.

TREE DELIVERY, STORAGE, & HANDLING

Delivery: Scheduling a mutual acceptable delivery date will be agreed upon between the Property Owner and the Contractor upon issuance of a Tree Replacement Voucher. Vendor shall make acceptable planting of the selected tree(s) within thirty (30) days of notification by the voucher holder (Property Owner). If, in the Vendor's opinion, existing weather or drought conditions hinder the survivability of the tree, planting may be postponed until conditions are favorable.

Transport: Do not prune prior to delivery unless approved by the Tree Program Coordinator. Do not bend or bind-tie trees in such a manner as to damage bark, break branches, or destroy the natural shape of the trees. All trees must be protected from wind and sun during transport and delivery, i.e. trees must be protected by a tarp or other similar protection.

Storage: If trees are not able to be planted within the same day of delivery, the remaining trees must be stored in an area providing protection from the sun, weather, and mechanical damage. The rootballs must be kept moist by covering with mulch, burlap, or other acceptable means of retaining moisture. The City of Irving assumes no responsibility for protection of the storage area (if one is needed). The Vendor shall assume all responsibility for any trees stored/stockpiled on site.

Handling: All trees will be handled in a proper manner at all times to avoid injury to the trunk, branches and rootball. Trees must never be carried by the stem, the rootball or containers must always be supported while being carried. Trees with damaged or broken rootballs due to dropping and improper handling will be immediately rejected.

TREE PLANTING GUIDELINES

Planting Depth: No tree will be planted deeper than previously grown. Do not dig the hole deeper than the depth of the rootball, leaving the soil in the bottom of the hole undisturbed. Trees which are planted deep or have settled due to improper planting will not be accepted as completed. Root crown at base of tree's trunk shall be at least 3" above surrounding grade when tree is planted.

Holes: Hole size will be determined by the size of the rootball or container size of the planting stock. Planting holes should be twice the diameter of the rootball. Sides of the hole will be scarified.

Root ball: With the balled and burlapped stock, remove the top one-third of the wire basket and fold back any burlap into the planting hole. No synthetic burlap or root ball wrapping should be left around the root ball. With container grown stock, slice the exterior of the root ball if circling roots are present.

Backfill & Watering: Parent soil will be used as backfill unless otherwise directed. When backfilling, care will be taken to ensure the removal of all air pockets. All plant material should be watered in at the time of planting or no later than the end of the same day planted.

Berms: The remainder of the soil may be used to build a soil berm around the edge of the planting hole.

Mulch: A layer of mulch 3-4 inches thick will be used and must cover the entire planting hole. The mulch will consist of wood or bark chips. The mulch will not come in direct contact with the bark of the tree.

Staking: Trees shall be staked using metal T-post placed opposite each other in undisturbed soil outside of the planting hole. The trees shall be secured to the T-post with wire with sections of rubber hose protecting the trunk from the wire. The trees will be secured allowing one inch of play to either post.

Pruning: Corrective pruning at the time of planting will consist of removing dead or broken branches only. All other pruning will be done with permission of the Tree Program Coordinator. Pruning will be done in accordance with the International Society of Arboricultural guidelines and ANSI A3000 pruning standards. (Do not shear the growing tips.)

JOB CONDITIONS

Utilities: It shall be the responsibility of the Vendor to locate and protect all underground utilities, hand digging when necessary. Repairs or replacement to damaged utilities will be the responsibility of the Vendor.

Existing Structures: The Vendor will be responsible for protecting any existing structures during planting operations. Vendor shall be responsible for repairing or replacing any existing structures damaged by his operations.

Cleanup: The job site will be kept neat and orderly at all times. All trash and debris shall be removed from the site daily as work progresses.

INSPECTION AND ACCEPTANCE

Inspection: During tree planting process, a representative from the City of Irving may visit tree planting site to evaluate compliance of the aforementioned specifications. When tree planting work is completed, the property owner as well as the Tree Program Coordinator will make a final inspection to determine acceptability of the work.

Non-Compliance: Where inspected work does not comply with requirements, replace rejected work and make a request for re-inspection.

Final Payment: Final payment for tree planting will be processed after job passes the Tree Program Coordinator inspection.

Pricing Pages

(I propose to provide and install trees as described or implied herein to include equipment, materials, and labor to complete the work described in the above specifications.)

Item	Description - Protected Tree Species List	Unit Price
Tier 1 Trees – Most Popular Trees – will count as 90% of the price evaluation		
1	Ash, Texas	(Fraxinus texensis)
2	Cypress, Bald	(Taxodium distichum)
3	Elm, Cedar	(Ulmus crassifolia)
4	Elm, Lacebark	(Ulmus parvifolia)
5	Maple, Bigtooth	(Acer grandidentatum)
6	Maple, Caddo	(Acer barbatum var. "Caddo")
7	Oak, Burr	(Quercus macrocarpa)
8	Oak, Live	(Quercus virginia)
9	Oak, Shumard	(Quercus shumardi)
10	Oak, Southern Red	(Quercus falcata)
11	Oak, Chinkapin	(Quercus macrocarpa)
12	Pine, Japanese Black	(Pinus thumbergi)
13	Pistache, Chinese	(Pistacia chinensis)
14	Willow, Desert	(Chilopsis linearis)
Tier 2 Trees – will count as 10% of the price evaluation		
15	Ash, White	(Fraxinus americana)
16	Blackhaw, Rusty	(Viburnum rufidulum)
17	Buckeye, Mexican	(Ungmadia speciosa)
18	Cedar, Eastern Red	(Juniperus virginiana)
19	Chitalpa	(Chitalpa Tashkentensis "Pink Dawn')
20	Eve's Necklace	(Sophora affinis)
21	Holly, Deciduous	(Ilex decidua)
22	Holly, Yaupon	(Ilex vomitoria)
23	Juniper, Ashe	(Juniperus ashei)
24	Magnolia, Little Gem	(Magnolia Grandiflora 'Little Gem')
25	Magnolia, Southern	(Magnolia grandiflora)
26	Maple, Shantung	(Acer Trumcatum)
27	Maple, Trident	(Acer buergerainum)
28	Pecan	(Carya illinoensis)
29	Persimmon, Texas	(Diospyros texana)
30	Pine, Afghan	(Pinus eldarica)
31	Pine, Austrian	(Pinus nigra)
32	Pine, Slash	(Pinus elliottii)
33	Plum, Mexican	(Prunus mexicana)
34	Redbud, Eastern	(Cercis canadensis)
35	Sweetgum	(Liquidambar styraciflua)
36	Walnut, Texas	(Jugians microcarpa)

Pricing Pages

In the event a property owner chooses to consolidate vouchers to select a larger tree from among the Protected Tree Species List, a discount of _____% off retail, including planting will be given.

Location of facility where tree selection will be made by property owner:

Street Address _____

City, State, Zip _____

Phone Number: _____

EVALUATION OF BIDS

The bids will be evaluated as follows:

The bids will be evaluated based 90% on the unit price of the most desirable, readily available tree species as designated in the Protected Tree Species Replacement List. It is anticipated that the most common, desirable, readily available trees (base tree) will constitute approximately 6 to 12 tree species from the Protected Tree Species Replacement List as a result of the bids and these unit prices will be used to determine the best value to the City. Consideration of 10% will also be given to the unit prices of all remaining tree species listed in the Protected Tree Species Replacement List.

Owners will normally make the tree species selection from the bid list and that selection will be forwarded to the vendor selecting the actual tree to be provided from the selected tree species. While it is not a requirement that the owner be allowed to personally select a tree from available stock, preference will be given to those vendors where it is possible for the property owner to personally visit the nursery to select the actual tree to be planted.

In the event no price is given for a particular tree species on a number of bids, that species may be eliminated from consideration on all bids.

Based on the bids received, a base value of a voucher will be established in the event that the property owner desires to consolidate multiple vouchers for the purpose of receiving a larger tree or more expensive tree species from the Protected Tree Species Replacement List.

Determining the Awardee - The responses for our current bid will determine the trees that will make up the Tier 1 Group (most popular trees) to be used as 90% of the price, leaving the remainder of the trees to make up only 10% of the price to determine the awardee.

Determining the Estimated Amount of the Award - the average pricing of the Tier 1 trees will be used to determine the value of the city issued voucher. The City estimates that 75 vouchers will be issued annually.

Assumptions:

- 1) If multiple vendors "No Bid" a tree, that tree may not be used in the evaluation.
- 2) Top Tier - Most Popular Trees - Tier 1 – will count as 90%; and
- 3) Bottom Tier Trees - Tier 2 – will count as 10% for evaluation purposes.

CITY OF IRVING

SUMMARY RESPONSE PAGE for ITB 015D-10

COMPLETE LEGAL NAME of firm submitting bid:

Mailing Address: _____

City, State, & Zip: _____

Phone: _____ **E-mail Contact:** _____

GRAND TOTAL of bid from Bid Pricing Page \$ _____

Authorized Signature _____ **Date** _____

Signature indicates bidder accepts the specifications, terms and conditions of this solicitation and that bidder is not delinquent on any payment due the City nor involved in any lawsuit against the City.

Print Name _____ **Title** _____

ARE YOU BIDDING as a _____ **Corporation** _____ **Non-Profit Corporation**
_____ **Limited Liability Company** _____ **Partnership**
_____ **Individual or Sole Proprietor**

M/WBE: If you are a minority-owned or woman-owned business, please check which type and list any certification number _____ **Black** _____ **Hispanic** _____ **Asia-India** _____ **Asia-Pacific**
_____ **Native American** _____ **Woman-Owned** _____ **Certification #** _____

PAYMENT TERMS: Normal payment terms are 2%/30 days. If offering other terms/discount, please specify _____. Discount will be considered in award.

PAYMENT PREFERENCE: Check all that apply:
_____ **EBT (electronic bank transfer)** _____ **Check** _____ **Credit card**

COOPERATIVE PURCHASES: Should other governmental entities decide to participate in this contract, would you agree that all terms, conditions, specifications and pricing would apply? Yes _____ No _____. If other governmental entities choose to participate, each entity will place its own order and be responsible for its own payments.

REFERENCES: This solicitation requires references. Please attach to this page a list of three references either currently doing business with you or having purchased goods or services within the past 24 months. For each reference list name, contact person, address, telephone, and e-mail address, and any other pertinent information to help the City of Irving verify the quality of goods or services your firm provides.

STANDARD TERMS AND CONDITIONS

Attachment A-1 (rev. 12/31/08)

1. Application

These standard terms and conditions shall apply to all City of Irving (hereafter "City") solicitations and procurements, unless specifically excepted in the solicitation specifications.

2. Requirements

By submitting a bid or proposal, the respondent agrees to provide the City of Irving with the specified goods or services described in the solicitation in accordance with these standard terms and conditions, at the agreed upon bid price and in compliance with the stated specifications and any subsequent addendums issued prior to the date of the bid opening.

3. Legal Compliance

Bidder or proposer must comply with all Federal, State and Local laws, statutes, ordinances, regulations and standards in effect at the time of delivery of goods and services, and must maintain any and all required licenses and certificates required under the same laws, statutes, ordinances, regulations and standards for services and/or goods provided in response to this solicitation.

4. Estimated Quantities

If the solicitation calls for unit pricing on specific items, the quantities described for each item are estimates only and not guaranteed amounts. The actual amount ordered over the contract period may be more or less than the estimate. Quantities represent the City's best estimate, based on past history and anticipated purchases.

5. Modifications and Addendums

The City shall have the right to modify any of the solicitation documents prior to submission deadline and will endeavor to notify potential bidders, but failure to notify shall impose no liability or obligation on the City. All modifications and addendums must be in written form prepared by the City department issuing the solicitation. Bidders are responsible for incorporating any and all modifications and addendums into their bid responses.

6. Interpretation of Solicitation Documents

The City is the final judge of the meaning of any word(s) sentences, paragraphs or other parts of the solicitation documents. Bidders are encouraged to seek clarification, before submitting a bid, of any portion of the bid documents that appears to be ambiguous, unclear, inconsistent, or otherwise in error. Clarifications will be in writing.

7. Late Bids

Bids must be received in the Purchasing Office by the time specified in the solicitation. The City will not accept late bids and is not responsible for the lateness or non-delivery of bids by the Postal Service or any private delivery firm. The time/date stamp in the Purchasing Office shall be the official time of receipt.

8. Conditional Bids

The City will not accept conditional bids which qualify the bidder's response in any way.

9. Minor Irregularities

The City reserves the right to waive any minor irregularities that do not materially affect the scope or pricing of submitted bids.

10. Responsiveness of Bids

The City wants to receive competitive bids, but will declare “non-responsive” bids that fail to meet significant requirements outlined in the solicitation documents.

11. Discrepancies and Errors

In the case of a discrepancy between the unit price and the extended total for a bid item, the unit price will prevail. The unit prices of bids that have been opened may not be changed for the purpose of correcting an error in the bid price.

12. Identical Bids

In the event two or more identical bids are received, and are lowest, responsible and responsive, award will be made as prescribed in the Texas Local Government Code, Chapter 271.901.

13. Reciprocal Local Preference

Some states provide a preference for vendors within their borders and add percentages to bids received from outside states. Where this happens, the state of Texas responds in like manner by applying the same percentage to bids received from vendors who are not from Texas. This applies to the purchase of materials, supplies, equipment and services.

14. Withdrawal of Bids

Bidders may withdraw any submitted bids prior to the bid submission deadline. Bidders may not withdraw once the bids have been publicly opened, without the approval of the City’s purchasing manager. Bidders will be allowed to withdraw bids that contain substantial mathematical errors in extension

15. Disqualification of Bidder

The City may disqualify bidders, and their bids not be considered, for any of the following reasons: Collusion among bidders; Bidder’s default on an existing or previous contract with the City, including failure to deliver goods and/or services of the quality and price bid; Bidder’s lack of financial stability; any factor concerning the bidder’s inability to provide the quantity, quality, and timeliness of services or goods specified in the solicitation; bidder involved in a current or pending lawsuit with City; bidder’s attempt to influence the outcome of the solicitation through unauthorized contact with City officials outside of those listed in the solicitation documents; and bidder’s attempt to offer gifts, gratuities, or bribes to any City employee or elected official in connection with a solicitation.

16. Cost of Bid

The cost of submitting bids shall be borne by the bidders, and the City will not be liable for any costs incurred by a bidder responding to this solicitation.

17. Inclusive Pricing

Bid pricing is to include all expenses, fees and charges related to the delivery of the specified goods or services. The City will not pay any additional charges other than the bid price unless requested by the City on the bid response sheet.

18. Firm Prices

Unless otherwise stated in the specifications, bidder’s prices remain firm for 120 days from date of bid opening and, upon award, remain in effect for the contract period specified in the solicitation. If formal award has not occurred within 120 days of bid opening, the vendor and the City may mutually agree to extend the firm price period.

19. Delivery Terms

Unless otherwise stated in the specifications, all goods delivered through this solicitation shall be FOB City of Irving specified delivery address or site.

20. Transportation Charges

Bidder shall be responsible for all charges which relate to the delivery of goods to the City's specified receiving point, and for shipping or transportation charges for returning to bidder any goods rejected as non-conforming to the specifications.

21. Delivery and Acceptance

The City will receive only those goods as authorized by City purchase order. Bidder must obtain City employee signature upon delivery. Bidder warrants that all deliveries relating to this solicitation be of the type and quality specified by the City. The City may refuse or reject any delivery failing to meet specifications and shall not be held to have accepted any delivery until after it has made an inspection of same. The City is the final judge as to acceptability of goods under this solicitation.

22. Failure to Deliver

If a bidder is unable to deliver the quantity or quality of specified goods, or is unable to deliver goods within a time period when included in the specifications, the City shall be authorized to purchase from any other available source, consistent with State of Texas procurement statutes.

23. MSDS

Bidders must submit Material Safety Data Sheets for any hazardous chemical quoted or supplied under this solicitation.

24. Taxpayer Identification

Bidders must provide the City with a current W-9 "Request for Taxpayer Identification and Certification" before goods or services can be procured from the bidder.

25. Taxes

The City is exempt from all federal excise taxes and all state and local sales and use taxes. If such taxes are listed on a bidder's invoice, they will not be paid. Additionally, bidders cannot use the City's tax exemption status to purchase goods or services related to this solicitation.

26. Payment

Payment will be made after receipt of all invoiced goods. Bidder will be paid within thirty days of date invoice is received or date goods are received, which is later. Additional discount may be taken by the City based on the Summary Response Page. The discount date begins with the date the invoice is received or the date all items covered by the invoice is received, whichever is later. Bidder is entitled to interest, at a rate stipulated by state law, if payment is not made within thirty days.

27. Outstanding Liabilities

Bidders shall not have outstanding, unpaid liabilities owed to the City. Liabilities may include, but are not limited to, property taxes, hotel occupancy taxes, license or permit fees, and water bills. Bids will be considered non-responsible and not given further consideration if submitted by a bidder with such outstanding liabilities.

28. Offset

The City may, at its option, offset any amounts due and payable under a contract award under this solicitation against any debt lawfully due the City from a vendor, whether or not the amount due arises pursuant to the terms of the contract and whether or not the debt has been reduced to judgment by a court.

29. Independent Contractors

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

30. New Products

The City will accept only new products, such products having not been used or owned by any entity, company or individual except the manufacturer and the manufacturer's distributors. Used or reconditioned products will not be accepted unless specifically requested in the accompanying solicitation.

31. Warranties

Bidder warrants that any and all goods delivered are newly manufactured, free from defects in materials and workmanship, and conform in every respect to the City's specifications. Goods are warranted for one year from date of acceptance by the City, following delivery and inspection. If at any time during the twelve months following acceptance of the goods, said goods fail to perform their intended purpose or are discovered to be defective or nonconforming to the City's specifications, the bidder will replace the goods at no cost to the City, including any delivery or installation costs. This warranty shall be unconditional, except it shall not apply to damage caused by clear abuse or misuse by the City. If a manufacturer of goods or of component parts of goods provides a warranty longer than the period provided for herein, the provisions of this warranty shall not be construed to diminish or conflict with the manufacturer's warranty.

32. Governing Law

All bids submitted in response to this solicitation and any resulting contract shall be governed by, and construed in accordance with, the charter and ordinances of the City of Irving, and the laws and court decisions of the State of Texas.

33. Controlling Document

In the case of a discrepancy between this solicitation and the formal contract, the formal contract will prevail and control.

34. Assignment

Bidder shall not assign, transfer, or pledge a contract awarded under this solicitation, in whole or in part, without the prior written consent of the City's purchasing manager. Assignment of this contract, if approved by the City, shall not relieve the bidder's obligations under the contract. Approval by the City of one assignment shall not constitute approval of any future assignment of the contract.

35. Termination

If an awarded bidder fails in any manner to fully perform each and all of the terms, conditions and covenants of a contract awarded by this solicitation, he shall be in default and notice of default shall be given to the bidder by the City's purchasing manager. In the event that the contractor continues in default for a period of seven (7) days after receipt of the above-mentioned notice of default, the City may terminate or cancel the contract. The City may also cancel a contract for convenience and without cause with thirty days notice. In any cancellation of contract, the City will pay the bidder for all goods received and accepted, and for all services provided and accepted up to and including the date of termination.

36. Indemnification

Bidder shall defend, indemnify, and hold harmless the City of Irving, its officers, agents, employees, appointees and volunteers against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by bidder's breach of any of the terms or provisions of any contract awarded as a result of this solicitation, or by any negligent or strictly liable act or omission of the bidder, its officers, agents, employees, or subcontractors, in the performance of an awarded contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City, its officers, agents or employees, and in the event of joint and concurrent negligence or fault of the bidder and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

37. Venue

The obligations of all parties under a contract awarded through this solicitation are performed in Dallas County, Texas, and if legal action is necessary to enforce same, exclusive venue shall be within Dallas County, Texas.

38. Funding

State of Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Orders or other obligations that may arise beyond the end of the current fiscal year shall be subject to approval of budget funds.

39. Solicitation Results

The City normally posts solicitation results on-line by the end of the next business day after bids are received. The City's Web site is www.cityofirving.org. Results are on the Purchasing Solicitation page, in the same place as the original solicitation documents. Posted results are for informational purposes only, not a notice of award.

40. Open Records

Bid pricing is not considered confidential and is open to public inspection. Trade secrets and other material considered confidential by the bidder should be clearly marked as such. If a request is made under the Texas Open Records Act to inspect information designated as a trade secret or confidential in a bid, the City will forward the appropriate documents to the Attorney General of Texas who will contact the bidder to request sufficient written reasons as to why the information should be protected from disclosure. Upon review of the bidder's response, the Attorney General will make a determination as to the confidentiality of the requested material(s), or lack thereof, and the City will respond accordingly.

GENERAL INSTRUCTIONS TO BIDDERS

Attachment B-1 (rev. 12/31/08)

1. Securing Specifications

Free specifications may be downloaded from the Purchasing page of the City's Web site, www.cityofirving.org. The City of Irving does not charge for specifications. If a third-party offers specifications or bid information for a fee, they do not represent the City. The City may charge for plans and drawings for construction solicitations.

2. Submission of Bids/Late Bids

Bid pricing must be in US dollars and cents, unless a "percentage off" is requested. Bidders are to provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. Bids are to be submitted in a sealed envelope or package and labeled with the bidder's name and the solicitation name & number. All bids must be submitted to the City of Irving Purchasing Division no later than the date and time indicated in the solicitation. All times listed are local times. It is the bidder's responsibility to ensure that bids are delivered/received by the specified time. Late bids will not be accepted and will be returned unopened.

3. Legal Name of Bidder

In completing the Summary Response Page, the bidder must list the legal name of the bidder's company. This is the name that will be on all contracts, awards, and purchase orders. The Summary Response Page also requires a statement as to the legal status of the bidder (corporation, partnership, sole proprietorship, etc.). The Summary Response Page should be the first document in the bidder's response.

4. Signature

The signature on the Summary Response Page must be in ink and from an individual with the authority to commit the company to the prices bid and terms stated.

5. Altered Bids

Any alterations, erasures or strikethroughs made by the bidder prior to submission of the bids must be initialed by the bidder to guarantee authenticity.

6. Cooperative Purchase

Bidders are given an opportunity on the Summary Response Page to indicate their willingness to allow other public entities to use the bid response as a basis for a contract with their entity, in lieu of competitive bidding. This provision is in compliance with Local Government Code 271.102.

7. Payment Terms, Discount & Type of Payment

Bidder should state payment terms on the Summary Response Page. If the bidder fails to indicate payment terms, the City will use the default of 2%/30 days. The bidder may also express the method(s) in which he or she wishes to receive payment.

8. References

When references are requested, the Summary Response Page will indicate how many references and will state what other conditions may apply to the references. Bidder will attach a separate page with the requested references.

9. **Conflict of Interest**
Bidders should review the instructions on conflict of interest (Attachment C-1). Bidders are to complete and submit the Conflict of Interest form (Attachment C-2), when a conflict of interest exists.
10. **Environmental Stewardship**
Bidders are encouraged to review the City's commitment to the environment (Attachment E-1). Bidders are to complete and submit the Environmental Stewardship form (Attachment E-2).
11. **Good Faith Effort**
Bidders are encouraged to review information on the City's Good Faith Effort program (Attachment G-1). Bidders are to complete and submit the Good Faith Effort Affidavit (Attachment G-2). Recommended bidder(s) will be required to complete the additional GFE forms as part of the award process.
12. **Addendums**
It is the bidder's responsibility to alter his bid response based on information updated in one or more addendums to the solicitation. Addendums will be posted on the Purchasing solicitation page of the City's Web site at least four days before the bid due date. Efforts will be made to ensure that bidders receive notice of addendums, but the ultimate responsibility rests with the bidder.
13. **Exceptions**
If a bidder takes exception to any part of the specifications or solicitation documents, such exception must be requested in writing, to the Purchasing agent/manager listed in the solicitation, at least six business days before the bid due date or within 24 hours of a pre-bid meeting, whichever is earlier. Approved exceptions will be included in an addendum and posted on the Purchasing Solicitation page of the City's Web site.
14. **Checklist**
A Bidder's Checklist (Attachment B-3) is included with the solicitation package. The checklist is an aid to the bidder in knowing which documents to submit.
15. **Hot Line**
Vendors may call 888-223-9524 to anonymously report instances of fraud, waste or abuse. Please provide as many details as possible.

SPECIAL INSTRUCTIONS TO BIDDERS

Attachment B-2 (rev. 12/31/08)

1. Bidding Process/Contact Information

The City of Irving is aware of the time and effort bidders spend in preparing and submitting bids. We will work with you to make the process as easy as possible. If you have questions or concerns about the bidding process, please contact:

Darlene Rush, Senior Purchasing Agent

drush@cityofirving.org

972.721.3752

2. Method of Award

Award will be made in its entirety to the lowest responsive, responsible bidder. The bids will be evaluated based 90% on the unit price of the most desirable, readily available tree species as designated in the Protected Tree Species Replacement List. It is anticipated that the most common, desirable, readily available trees (base tree) will constitute approximately 6 to 12 tree species from the Protected Tree Species Replacement List as a result of the bids and these unit prices will be used to determine the best value to the City. Consideration of 10% will also be given to the unit prices of all remaining tree species listed in the Protected Tree Species Replacement List. In the event no price is given for a particular tree species on a number of bids, that species may be eliminated from consideration on all bids. Awards totaling \$50,000 or more will be made by the Irving City Council.

3. Public Bid Opening

A public bid opening will be held at 3:00 p.m. on October 27, 2009, in the Purchasing Conference room, 845 W. Irving Blvd., Irving, TX 75060.

4. Insurance Requirements

This solicitation has insurance requirements. They are listed as Attachment D-1, D-4, D-6, and D-7. Please review the requirements with your insurance agent and submit insurance affidavit (Attachment D-4) with your bid.

5. Required Contract

This solicitation requires a signed contract prior to award. City's contract is attached and should be signed and submitted with your bid.

CHECKLIST FOR BIDDERS

Attachment B-3 (rev. 12/31/08)

Documents to be submitted in response to this Invitation to Bid (ITB)

_____ **BID PRICING PAGE:** All lines completed.

_____ **BID RESPONSE:** Completed Summary Response Page

_____ **DUE DATE** (Bid must be received & stamped in Purchasing no later than
3:00 pm on October 27, 2009)

Bids failing to comply with the above will be deemed non-responsive.

The following items should be turned in with the bid. Documents must be received before award recommendation.

_____ **GOOD FAITH EFFORT AFFIDAVIT** (Attachment F-2)

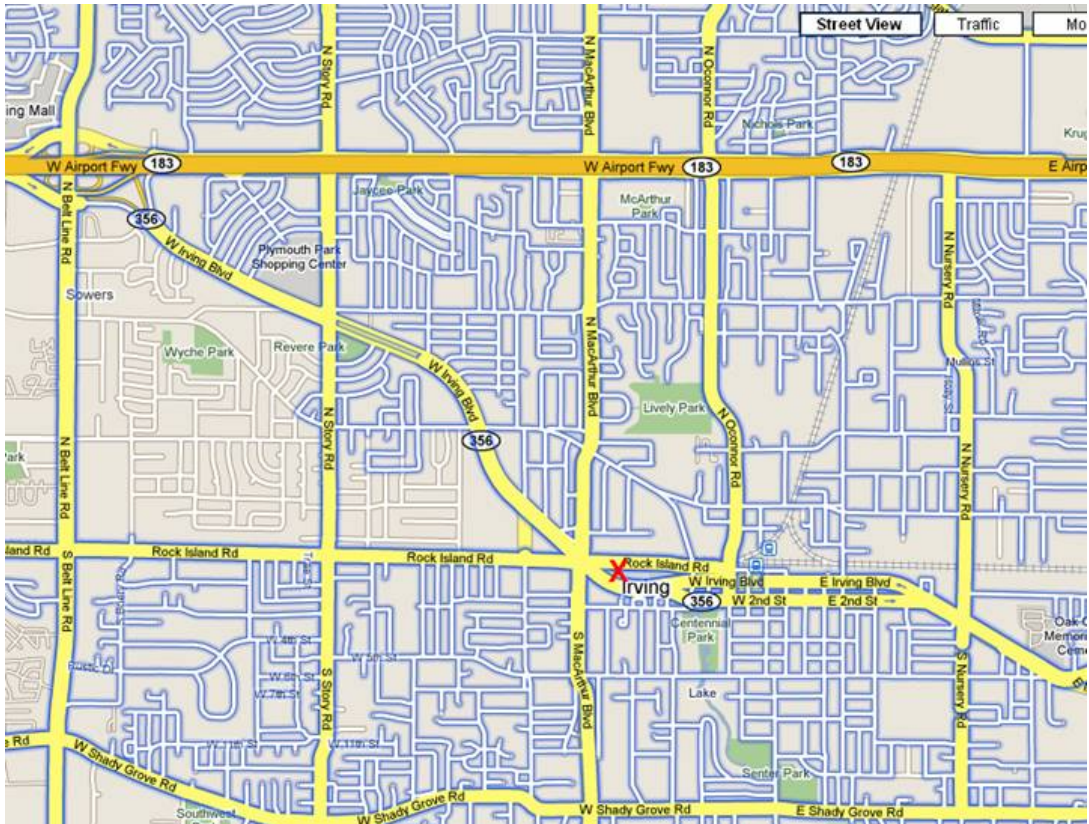
_____ **ENVIRONMENTAL STEWARDSHIP** (Attachment E-2)

_____ **CONFLICT OF INTEREST STATEMENT** (If applicable) (Attachment C-2)

_____ **REFERENCES** (As requested on the Summary Response Page)

_____ **INSURANCE AFFIDAVIT** (Attachment D-4)

_____ **STANDARD CONTRACT FOR SERVICES** (Attachment H-2)



Location of City of Irving Purchasing Division

Attachment B-5 (rev. 12/31/08)



**INSTRUCTIONS for
CONFLICT OF INTEREST QUESTIONNAIRE**
Attachment C-1 (rev. 12/31/08)

1. If you have a conflict of interest in doing business with the City of Irving, use Attachment C-2, Conflict of Interest questionnaire. Conflicts of interest are addressed in Texas Local Government Code, Chapter 176.
2. You may consult your attorney on questions arising from the reading of Texas Local Government Code, Chapter 176, and you may contact the Texas Ethics Commission at 512-463-5800 or 800-325-8506.
3. If you complete Attachment C-2, Conflict of Interest questionnaire:
 - Put the name of bidder and name of company in block #1.
 - If any person employed by bidder or bidder's company has any known business conflicts, other than previous contracts awarded through a competitive bidding process, or has an existing relationship with any employee of the City of Irving, list that information in blocks #3, #4 and/or #5 as appropriate.
 - Sign in block #6.
4. To view a listing of conflict of interest forms filed with the City of Irving, please click
<http://cityofirving.org/city-secretary/conflict-of-interest/conflict-of-interest-forms.html>
5. Listings of City elected officials and local government officers may be found on the City's Web site: www.cityofirving.org.
6. A person failing to file a Conflict of Interest questionnaire, when required by Local Government Code, Chapter 176, commits a Class C misdemeanor.

Attachment C-2

CONFLICT OF INTEREST QUESTIONNAIRE For vendor or other person doing business with local governmental entity		FORM CIQ
<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. An offense under this section is a Class C misdemeanor.</p>		OFFICE USE ONLY
Date Received		
1	Name of person doing business with local governmental entity.	
2	<input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than 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.)	
3	Name each employee or contractor of the local governmental entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money AND describe the affiliation or business relationship.	
4	Name each local government officer who appoints or employs local government officers of the governmental entity for which this questionnaire is filed AND describe the affiliation or business relationship.	

Adopted 11/02/2005

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor or other person doing business with local governmental entity

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 other 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

Signature of person doing business with the governmental entity

Date

INSURANCE REQUIREMENTS FOR SERVICES

Attachment D-1 (rev. 12/31/08)

At his own expense, contractor shall procure and maintain for the duration of the proposed contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors. Said insurance shall be in the type(s) and minimum(s) listed below.

Workers' Compensation

Workers' Compensation Insurance with statutory limits as required by the Labor Code of the State of Texas and Employers' Liability Insurance with minimum limits of \$100,000 per each accident, \$500,000 disease policy limit, and \$100,000 occupational disease per employee.

Workers' Compensation coverage shall be based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meet the statutory requirements of the Texas Labor Code and shall apply to all employees of the contractor providing services under the proposed contract. Sole Proprietors may request a waiver of this requirement if they have no employees. If services under this contract will not be performed on city property, the contractor may submit a written request for exemption from this requirement.

Commercial General Liability

Commercial General Liability Insurance with a minimum limit of \$1,000,000 per occurrence for bodily injury, personal injury and property damage. Aggregate Policy minimum limit of \$1,000,000 will include coverage for, but is not limited to, Premises-Operations, Broad Form Contractual Liability, Broad Form Property Damage, Products and Completed Operations, Personal Injury, and Independent Contractors and Contractual Liability. Coverage under this policy shall be on an "occurrence" basis.

Business Automobile Liability Insurance

Automobile Liability Insurance with a minimum is of \$500,000-Combined Single Limit. Coverage shall include all owned, hired, and non-owned vehicles used in performance of the proposed contract. The combined coverage limits of this insurance shall include bodily injury (including death) and property damage. If the performance of services under this contract will not require the use of vehicle(s) contractor may request, in writing, exemption from this requirement.

By submitting a bid or proposal without previously approved exceptions, contractor agrees to the following general provisions. Requests for exceptions to general provisions and/or coverages must be submitted at least one week prior to bid due date. Exceptions must be approved in writing by City's representative prior to bid or proposal submission. The City will not accept requests for exceptions after bids have been received.

General Provisions

1. **SCOPE** – These provisions apply to all contracted vendors unless specifically exempted in the proposed contract. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whose claim is made, or suit is brought, except to the limits of the insured's liability.

- 2. COVERAGE APPLICATION** – Contractor’s insurance must be primary as respect to the City, its officers, employees, elected officials, appointees and volunteers and noncontributory with any other insurance, including self-insurance, maintained by the City for its benefit. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City.
- 3. DEDUCTIBLES AND SELF-INSURED RETENTIONS** – Subject to contractor’s right to maintain reasonable deductibles, any deductibles or self-insured retentions must be disclosed to and approved by the City. The City reserves the right to review the insurance obtained by the contractor in comparison to the requirements specified in this section.
- 4. ADDITIONAL INSURED** – The City of Irving, including its officers, officials, employees, Boards and Commissions and volunteers shall be named as an additional insured by endorsement to the coverage listed herein, excluding Workers’ Compensation and Employers’ Liability (for which a waiver of subrogation is required to be issued in favor of the City), with regard to the insured’s activities as required by written contract. The coverage shall contain no special limitations on the scope of protection afforded to the City, and all premiums arising from the coverage herein shall be the responsibility of the insured.
- 5. COVERAGE CONTINUATION AND CANCELLATION-** In the event any insurance policy shown on the certificate(s) of insurance has an expiration date prior to the completion of the contract, the contractor shall furnish the City proof of identical continued coverage no later than thirty days prior to the expiration date shown on the certificate. Failure to maintain continuous coverage during the term of the proposed contract, or failure to provide proof of coverage at any time during the term of the contract, may result in cessation of work and/or termination of the contract. Coverage shall not be canceled, non-renewed or materially altered except after thirty days prior written notice by certified mail (return receipt requested) to Purchasing Manager, 845 W. Irving Blvd., Irving, TX 75060.
- 6. SUBROGATION** - Contractor must waive all rights of subrogation against the City of Irving for bodily injury (including death), property damage or any other loss arising from work performed by the vendor for the City.
- 7. RESPONSIBILITY** - Approval, disapproval or failure to act by the City regarding any insurance supplied by the contractor or its subcontractors shall not relieve the contractor of full responsibility or liability for damages and accidents as set forth in the contract documents
- 8. ACCEPTABILITY** - The City retains the right to approve the acceptability of insurers. As a general rule, the City will accept insurers authorized to transact business in the State of Texas with an A. M. Best rating of “A- VI” or better.
- 9. PAYMENT OF PREMIUMS** - Companies issuing insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are the sole responsibility and liability of the contractor.
- 10. INDEMNIFICATION** - The contractor agrees to defend, indemnify, and hold harmless the City of Irving, its officers, agents, employees, appointees and volunteers against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by contractor’s breach of any of the terms or provisions of this contract, or by any negligent or strictly liable act or omission of contractor, its officers, agents, employees, or subcontractors, in the performance of this contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City, its officers, agents or employees, and in the event of joint and concurrent negligence or fault of contractor and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the

benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Proof of Insurance

- 1.** To show ability to meet these insurance requirements, bidders should submit insurance affidavit (Attachment D-4) as part of their response to this solicitation.
- 2.** Upon notice of award, awarded contractor must submit to the City of Irving, within fifteen business days, proof of all insurance coverages required by this solicitation.
- 3.** Proof of insurance shall be furnished to the City on the ACORD certificate form, provided the appropriate endorsements for Additional Insured and Amendment of Cancellation with 30-day notice are included.
- 4.** If requested by the City, the contractor must provide copy of the Declaration Page of the policy with all relevant policy endorsements, including endorsement showing City of Irving as Additional Insured, within fifteen days of request. Copy must be signed by the contractor and notarized.
- 5.** Required proof of insurance must be provided by awarded contractor before the City will authorize any work to be performed under this proposed contract.
- 6.** The City reserves the right to request a complete copy of all insurance policies at any time.

AFFIDAVIT FOR INSURANCE REQUIREMENTS

Attachment D-4 (rev. 12/31/08)

To Be Completed By Insurance Agent/Broker and Bidder

Section 1 I, the undersigned Agent/Broker, reviewed the insurance requirements contained in ITB015D-10. If the Bidder listed below is awarded a contract by the City of Irving for this ITB, I will furnish the City, within fifteen calendar days of notification of award, an insurance certificate and Declaration Page with Endorsements to show that all insurance requirements have been met, including naming the City of Irving as additional insured.

Agent's Name: _____

Agency Name: _____

Address: _____

City/State/ZIP: _____

Telephone No: () _____ E-mail Address: _____

Bidder's Name/Company: _____

Name of ITB/RFP: _____

Insurance Agent/Broker Signature: _____ **Date:** _____

Section 2 If the above fifteen day requirement is not met, the City of Irving has the right to reject this bid and award the contract to the next lowest bidder meeting specifications or to the next most favorable proposal. Questions concerning these requirements, and requests for exceptions, must be submitted by date included in Bidders' Instructions.

By submitting a bid and signing below I affirm the following: I am aware of all costs to provide the required insurance, will do so pending contract award, and will provide a valid insurance certificate meeting all requirements and policy endorsement within fifteen calendar days of notification of award. I further agree to the indemnification statement listed in the insurance requirements.

Signature: _____ **Date:** _____

INDEMNIFICATION BY CONTRACTOR

Attachment D-6 (rev. 12/31/08)

The contractor agrees to defend, indemnify, and hold harmless the City of Irving, its officers, agents, employees, appointees and volunteers against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by contractor's breach of any of the terms or provisions of this contract, or by any negligent or strictly liable act or omission of contractor, its officers, agents, employees, or subcontractors, in the performance of this contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City, its officers, agents or employees, and in the event of joint and concurrent negligence or fault of contractor and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Contractor further agrees to defend, at its own expense, and on behalf of City and in the name of City, any claim or litigation brought in connection with any such injury, death, or damage.

The liability that is assumed by Contractor under the terms of this paragraph shall not exceed the sum of the required amount of liability coverage to be carried by the Contractor under this contract,.

CONTRACTOR (Company Name) _____

SIGNATURE _____





PRINTED NAME _____

PRINTED TITLE _____

ENVIRONMENTAL COMMITMENT & COMPLIANCE

Attachment E-1 (rev. 12/31/08)

Because the City of Irving is committed to protecting the environment and becoming a successful environmentally sustainable community, it is essential that environmental considerations be a part of all City activities and operations. This commitment is demonstrated through;

-  Compliance
-  Environmental Sustainability
-  Continued Improvement
-  Pollution Prevention

As a contactor/vendor/consultant for the City of Irving your environmental performance is critical in meeting the City's commitment to protect the environment and comply with all environmental laws and regulations.

There are many laws and regulations relating to the protection of the environment. In these laws, all persons share responsibility for the environment. It is your responsibility as a contractor to know which laws, regulations, approvals or permits relate to the work you are doing for the City of Irving. It is also your responsibility as a contractor to comply with all applicable laws and ensure all requirements imposed by these laws are met

The City of Irving has a commitment to being good stewards of the environment. We expect your commitment, as a City contractor/vendor/consultant, to the same goal.

ENVIRONMENTAL STEWARDSHIP

Attachment E-2 (rev. 12/31/08)

Recognizing the importance of exercising positive environmental stewardship, The City of Irving is pro-active in encouraging environmentally-sound practices in our operations and among our residents, businesses, and suppliers. Please review the specifications or scope of work for this solicitation for any environmental requirements.

Check any of the following which apply to your business operation, and list details:

_____ **Recycling** _____

_____ **Energy Efficiency Practices** _____

_____ **Environmentally Preferred** _____

_____ **Water/Energy Conservation** _____

_____ **Air Quality/Emissions** _____

_____ **Disposal Practices** _____

_____ **Other Environmentally Friendly Practices** _____

Bidder _____

ITB 015D-10

Date _____

GOOD FAITH EFFORT PROGRAM OVERVIEW

Attachment F-1 (rev. 12/31/08)

All bid documents and proposal packages must include the signed GFE affidavit affirming the bidder/proposer's intent to comply with the City's Good Faith Effort program. Unless otherwise indicated in the ITB or RFP documents, no other GFE documentation will be required at time of bid or submission. Upon notification of intent to recommend award of contract, the apparent low bidder/most advantageous proposer has up to five (5) business days to submit the appropriate GFE forms to the City's M/WBE Program Administrator. Required GFE forms must be submitted prior to award by City Council.

The GFE forms are:

- **GFE-1** Good Faith Effort Affidavit (included as Attachment F-2)
- **GFE-2** Schedule of M/WBE Participation
- **GFE-3** Good Faith Effort Log
- **GFE-4** Intent to Perform as a Sub-Contractor
- **GFE-5** Payment Report

NOTE: Forms GFE-2 thru GFE-5 are available on the City's Web site in the Purchasing section, under "Forms."

1. All bidders or proposers must submit form **GFE-1**, Good Faith Effort Affidavit.
2. Prime contractors who are tentatively recommended for award and who will meet or exceed the GFE goal must submit the following additional forms:
 - GFE-2** Schedule of M/WBE Participation
 - GFE-4** Intent to Perform as Sub-Contractor (one for each sub-contractor)
3. Prime contractors who are tentatively recommended for award and who will NOT meet or exceed the GFE goal must submit the following form:
 - GFE-3** Good Faith Effort LogIn addition, if the contractor has partial participation toward the goal, the following forms are also submitted:
 - GFE-2** Schedule of M/WBE Participation
 - GFE-4** Intent to Perform as Sub-Contractor (one for each sub-contractor)
4. The awarded contractor will submit the following form monthly to verify that the sub-contracting work is being done as agreed upon:
 - GFE-5** Payment Report

For any GFE communication: Call 972-721-3753 or 972-721-2631

GOOD FAITH EFFORT AFFIDAVIT

Attachment F-2 (rev. 12/31/08)

On January 11, 2007, the Irving City Council adopted a policy to equitably and conscientiously include Minority- and Women-owned Business Enterprises (M/WBE's) in the City procurement process for all basic goods, services, professional services, and construction solicitations. The City and its contractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and performance of contracts. In consideration of this policy, the City of Irving has implemented the Good Faith Effort (GFE) Program.

M/WBE Participation Goals

The GFE Plan establishes subcontracting goals for all prospective bidders, proposers, and submitters to ensure a reasonable degree of M/WBE participation in City contracts. It is the goal of the City of Irving that a certain percentage of work under each contract be executed by one or more M/WBEs.

The following M/WBE participation goals have been established without consideration for a specific ethnicity or gender:

<u>Construction</u> 30.00%	<u>Architectural & Engineering</u> 28.00%	<u>Professional Services</u> 33.00%	<u>Other Services</u> 20.00%	<u>Goods</u> 10.00%
-------------------------------	--	--	---------------------------------	------------------------

The apparent low bidder/most advantageous proposer shall agree to meet the established goals or must demonstrate and document a "good faith effort" to include M/WBEs in subcontracting opportunities. The apparent low bidder/most advantageous proposer who fails to adequately document good faith efforts to subcontract or purchase significant material supplies from M/WBEs may be denied award of the contract by the City based on the contractor's failure to be a "responsive" proposer or bidder.

By signing below, I agree to provide the City of Irving with a completed copy of all forms required by Good Faith Effort Program. I understand that if I fail to provide all of the required documents within five (5) business days after notification, my bid or proposal may be deemed "non-responsive" and I may be denied award of the contract.

ITB Number 015D-10

Typed or Printed Name of Certifying Official of Company

Date

Signature of Certifying Official of Company

Title

Form GFE-1

INSTRUCTIONS FOR STANDARD CONTRACT

Attachment H-1

- 1. The Standard Contract and Acknowledgement, Attachment H-2 or H-7, must be completed and submitted with the bid response for all annual contracts for goods, and for all solicitations for services, unless a specialized contract will be offered.**
- 2. Date, complete information at the bottom of page one, and sign.**
- 3. Page two requires the signature to be notarized with the proper acknowledgement. Select from one of three versions: Corporate, Partnership or Sole Proprietorship.**

STANDARD CONTRACT AND ACKNOWLEDGMENT
Attachment H-7

STATE OF TEXAS §
COUNTY OF DALLAS § KNOW ALL PERSONS BY THESE PRESENTS:
CITY OF IRVING §

I.

Conditioned upon Vendor being awarded by the Irving City Council, or award being made administratively, the solicited items set out in ITB 015D-10, and upon order of the City of Irving, Texas, a municipal corporation located in Dallas County, Texas and incorporated as a home rule city under the Constitution of the State of Texas ("City"), Vendor does hereby agree to furnish and/or deliver to City in accordance with the terms of Vendor's submitted Bid Page or Proposal and the Specifications in above referenced ITB, the services listed as awarded to bidder in the Irving City Council resolution awarding such services, or listed in the Administrative Award. Execution of said Resolution or Administrative Award shall evidence City's acceptance of this contract.

II.

City agrees to pay Vendor for services at the unit price listed upon the Bid Page and Specifications or at the negotiated rate determined by the vendor's proposal and any subsequent modifications agreed to by both vendor and the City, with payment being subject to any discount terms stated or agreed upon, and subject to any payment terms contained elsewhere within the solicitation documents, this contract and its attachments. Any purchase of services so that the cumulative total of payments under this contract exceeds the amount authorized in the City Council Resolution awarding bid to Vendor may require additional authorization.

III.

It is understood that the following documents, to wit: the Notice to Bidders, the Standard Terms and Conditions, the General Instructions to Bidders, the Special Instructions to Bidders, the Specifications, the Bid Page or Proposal, and the Summary Response Page are hereby made a part and parcel of this contract and incorporated herein for all purposes.

IV.

The date of any payment, whether net or gross, shall be determined by calculating the number of days after receipt of invoices from Vendor, or after reasonable verification as to the requirements specified, whichever is later.

V.

Venue of any court action brought directly or indirectly by reason of this contract shall be in Dallas County, Texas. This contract is made and is to be performed in Dallas County, Texas.

VI.

If Vendor fails in any manner to fully perform each and all of the terms, conditions and covenants of this contract, he shall be in default and notice of default shall be given to Vendor by the Purchasing Agent of the City. In the event that Vendor continues in default for a period of seven (7) days after receipt of the above-mentioned notice of default, City may terminate or cancel this contract or at its option may purchase similar services on the open market and recover from Vendor any difference in price thereof.

SIGNED this the _____ day of _____, A.D. 2_____.

Signature _____

Name _____

Title _____

Company Name _____

STANDARD CONTRACT AND ACKNOWLEDGMENT

CORPORATE ACKNOWLEDGMENT

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared:

(Print Name) (Print Title)

of the corporation known as _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said corporation, that he or she was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation and that she or he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, A.D., 2_____.

Notary Public In and For
County, _____

My Commission expires: _____

PARTNERSHIP ACKNOWLEDGMENT

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day appeared:

(Print Name) (Print Title)

of _____ a partnership, known to me to be the person and partner whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said partnership, and that she or he was duly authorized as a partner of such partnership to perform same for the purpose and consideration therein expressed, and in the capacity therein stated. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, A.D., 2_____.

Notary Public In and For
County, _____

My Commission expires: _____

SINGLE ACKNOWLEDGMENT

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, A.D., 2_____

Notary Public In and For
County, _____

My Commission expires: _____

ATTACHMENT I
TREE MITIGATION POLICY FOR
CITY OF IRVING CONSTRUCTION PROJECTS IN
CITY STREET RIGHT-OF-WAY

1. *Purpose:* The purpose of this policy is to establish guidelines for the protection of matured and recognized trees of value within street right-of-ways in the City of Irving and to provide for the replacement and replanting of protected trees that are necessarily removed during construction projects in public street right-of-way.
2. *Definitions:* The following definitions shall apply to this policy:
 - a) *Protected Tree:* Any self-supporting woody perennial plant which has a trunk diameter of six (6) inches or more when measured at a point twelve (12) inches above ground level, with one or multiple trunks and designated by the Texas Forest Service as a quality species for landscape and natural habitat enhancement and worthy of protection consideration. See attached Protected Tree Species List.
 - b) *Drip Line:* A vertical line run through the outermost portion of the crown of a tree and extending to the ground.
 - c) *Historic/Specimen Tree:* A tree which has been found by the City to be of notable historic interest or special value because of its age, type, size, historic association or other professional criteria and has been so designated by the City as part of the official records of the City. (Example: A State Record Tree)
 - d) *Mitigation:* The replacement of protected trees in accordance with this policy to the property owner on whose property the tree is located on or adjacent to in public street right-of-way.
3. *Applicability:* The terms and provisions of this chapter shall apply to protect all trees within public right-of-ways which are affected by construction projects funded by the City of Irving within public street right-of-ways.
4. *Tree Removal Without Mitigation:* No protected tree within public right-of-ways shall be removed without mitigation unless:
 - a) The property owner whose tree is affected chooses not to participate in this policy.
 - b) The tree is dead, diseased or injured prior to eligibility for mitigation. Trees that die, become diseased or are injured as a result of a City of Irving funded project within public street right-of-way are eligible for mitigation in the event they are removed as a result of their death, disease or injury.

5. *Mitigation of Tree Removal:* Protected trees shall be eligible for mitigation in accordance with the following requirements:
 - a) The number of replacement trees offered must equal the total number of the protected tree(s) removed on each affected property.
 - b) The replacement tree(s) must be planted between the right-of-way line and a point not further than 25' from the right-of-way line on the site from which the tree(s) were removed.
 - c) The replacement tree must have a minimum diameter of four (4) inches, measured twelve (12) inches above planting grade.
 - d) All replacement tree(s) stock must conform to the Texas Nurseryman's Association Plant Standards for that species.
 - e) Unless a separate mitigation plan exists for trees removed during a public construction project within the right-of-way, trees located in existing public right-of-way shall be mitigated to the adjacent property owner. To determine the property owner, property lines shall be extended to the centerline of the street or median as if this area were within the ownership of that property. Property Owner Associations sometimes maintain landscaping in the right-of-way and in the medians. Property Owner Associations will be given consideration in the mitigation of trees maintained by the association.
 - f) In the event the adjacent property is subject to future development that would endanger mitigated trees, mitigation is optional at the Director's discretion.
 - g) In the event that it is not feasible to mitigate the trees to the eligible adjacent property owner, the property owner may assign/transfer the mitigation to other property owners within the limits of the construction project.
6. *Method of Mitigation:* Removal of trees due to a construction project in public street right-of-way shall be mitigated by a process generally described as follows:
 - a) Prior to construction, a survey will be made which will locate all trees, determine their size and species, and whether or not they are a protected tree.
 - b) Protected trees may be in either existing City right-of-way or proposed right-of-way which is being obtained as a requirement of this project.
 - 1) *Existing City Right-of-Way:* The City will determine which property is eligible for mitigation, i.e., which property is adjacent to the protected tree, and will offer the property owner tree mitigation in accordance with Section 5 of this policy.
 - 2) *Proposed City Right-of-Way:* Tree mitigation will be considered during the right-of-way negotiation process. The owner will be offered, and encouraged, to accept

tree mitigation as compensation for loss of trees. These negotiations could include mitigation of trees not defined as protected by this policy. Whether or not the final agreement includes tree mitigation/replacement for the loss of trees will ultimately be the decision of the property owner inasmuch as it is his property and his trees that are being taken.

- c) The City will enter into a contract or contracts with qualified nursery(s) to provide and plant the designated species of trees. It will be the property owners option to choose which species of tree he desires of those offered.
- d) Qualified property owners will receive a voucher for each protected tree that has been mitigated on or adjacent to his property.
- e) The property owner will be responsible for:
 - 1) Taking the voucher to the designated nursery.
 - 2) Coordinating with the nursery to plant the tree(s) at the location designated by the property owner in accordance with Section 5.b. of this policy.
 - 3) Future maintenance of the tree.
- f) Trees shall not be planted until construction is completed to ensure they are not harmed during construction.

7. *Section Attachment:*

- a) Protected Tree Species List.

PROTECTED TREE SPECIES LIST
Preservation Only, Not Recommended for Replacement

COMMON NAME	SCIENTIFIC NAME
Elm, American Elm	(Ulmus Americana)
Persimmon	(diosyros virginniana)
Oak, Blackjack Oak	(Quercus maniancica)
Oak, Northern Red Oak	(Quercus rubra)
Oak, Post Oak	(Quercus stellata)
Oak, Water Oak	(Quercus nigra)

PROTECTED TREE SPECIES LIST

Description - Protected Tree Species List Recommended for Replacement	
Most Common & Adaptable Species for Irving	
Cypress, Bald	(Taxodium distichum)
Oak, Burr	(Quercus macrocarpa)
Elm, Cedar	(Ulmus crassifolia)
Pistache, Chinese (and not native to TX)	(Pistacia chinensis)
Oak, Chinkapin	(Quercus macrocarpa)
Redbud, Eastern	(Cercis canadensis)
Elm, Lacebark (and not native to TX)	(Ulmus parvifolia)
Oak, Live	(Quercus virginia)
Oak, Shumard	(Quercus shumardi)
Oak, Southern Red	(Quercus falcata)
Plum, Mexican	(Prunus mexicana)
Magnolia, Southern	(Magnolia grandiflora)
Sweetgum	(Liquidambar styraciflua)
Holly, Yaupon	(Ilex vomitoria)
Not Native to Texas	
Pine, Afghan	(Pinus eldarica)
Pine, Austrian	(Pinus nigra)
Pine, Japanese Black	(Pinus thumbergi)
Others	
Ash, Texas	(Fraxinus texensis)
Ash, White	(Fraxinus americana)
Blackhaw, Rusty	(Viburnum rufidulum)
Buckeye, Mexican	(Ungmardia speciosa)
Cedar, Eastern Red	(Juniperus virginiana)
Chitalpa	(Chitalpa Tashkentensis "Pink Dawn")
Eve's Necklace	(Sophora affinis)
Holly, Deciduous	(Ilex decidua)
Juniper, Ashe	(Juniperus ashei)
Magnolia, Little Gem	(Magnolia Grandiflora 'Little Gem')
Maple, Shantung	(Acer Trumcatum)
Maple, Bigtooth	(Acer grandidentatum)
Maple, Caddo	(Acer barbatum var. "Caddo")
Maple, Trident	(Acer buergerainum)
Pecan	(Carya illinoensis)
Persimmon, Texas	(Diospyros texana)
Pine, Slash	(Pinus elliottri)
Walnut, Texas	(Jugians microcarpa)
Willow, Desert	(Chilopsis linearis)

Tree Replacement Voucher

Property Owner: _____

Vendor: _____

Property Address: _____

Location: _____

Phone Number: _____

Phone Number: _____

The City of Irving's Tree Mitigation Program is designed to provide for the replacement and replanting of protected trees that are necessarily removed during public construction projects. During the course of constructing public improvements, the City removed _____ qualifying trees from the right-of-way/public property in front of the above address.

This voucher is good for _____ () tree(s) of 4-inch caliper to be planted by the vendor listed above. Trees planted shall be one of the following species based on availability: *(upon award of Bid, common readily available species will be listed. The voucher will be good for one of these trees)*. Other species from the Protected Tree Species list may be substituted. This voucher only covers the price of the species listed. Above Property Owner is responsible for price differential of voucher and tree selected from Protected Species List other than these specifically listed above.

Instructions: The City of Irving voucher is issued according to the Tree Mitigation Policy of the City of Irving. Property Owner is responsible for contacting the vendor above to arrange for tree planting. Vendor will plant tree according to the Tree Mitigation Policy. Vendor will guarantee the tree for six months (assuming proper care by Property Owner).

Special Instructions: 1.) Vouchers may be consolidated for larger trees. Consolidation may not exceed the total value of the voucher issued.
2.) Vouchers are not to be used until the construction project is complete. This will avoid planting trees in areas that may be further disturbed by construction.

Planting Requirements: **Trees must be planted within first 25-feet of the property line.** Property line is generally 9.5-feet from the street curb. Trees are not to be planted within 9.5-feet of the street curb. Trees may be planted in alternate locations on the property with approval of Tree Program Coordinator.

Voucher Issue Date: _____

Voucher Expiration Date: _____

(Expiration date may be extended if project is delayed or extended)

Project: _____

Vendor#: _____

PO#: _____

Tree Program Coordinator: _____

YO#: _____

Signature: _____

Voucher# _____

Phone Number: _____

Acceptance of Final Tree Planting: _____

Property Owner Signature