



## REQUEST FOR PROPOSAL

The enclosed REQUEST FOR PROPOSAL (RFP) and accompanying SPECIFICATIONS are for your convenience in submitting an offer for the enclosed referenced products/services for:

**RFP # 1617-06**

**TRAVEL DEMAND MODEL SERVICES**

**CLOSING DAY AND TIME: Sealed proposals will be received no later than:**

**2:00 P.M. NOVEMBER 11, 2016**

**MARK ENVELOPE:**

**“RFP # 1617-06 TRAVEL DEMAND MODEL SERVICES”**

**RETURN PROPOSAL TO:**

**CITY OF LONGVIEW PURCHASING OFFICE  
PO BOX 1952  
LONGVIEW, TEXAS 75606**

**OR:**

**300 W. COTTON  
LONGVIEW, TEXAS 75601**

**QUESTIONS** regarding this solicitation should be directed to Jaye Latch at (903) 237-1324/[jlatch@longviewtexas.gov](mailto:jlatch@longviewtexas.gov) on or before 5:00 P.M. CST, November 4, 2016. Information in response to any inquiry may be published as an addendum. Addendum can be found on the City of Longview website: [longviewtexas.gov/bids](http://longviewtexas.gov/bids).

Name of firm submitting proposal: \_\_\_\_\_

# REQUEST FOR PROPOSAL

Cut along the outer border and affix this label to your sealed proposal envelope to identify it as a "Sealed Proposal". Be sure to include the name of the company submitting the proposal.



**SEALED RFP ● DO NOT OPEN**

**TRAVEL DEMAND MODEL SERVICES**

**RFP No. 1617-06**

**RFP OPENING: NOVEMBER 11, 2016 @ 2:00 p.m. CST**

**For Information Contact:**

**Jaye Latch**  
**(903) 237-1324**  
[jlatch@longviewtexas.gov](mailto:jlatch@longviewtexas.gov)

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**Proposals must be addressed to:**

**Jaye Latch**  
**Purchasing Manager**  
**P.O. Box 1952**  
**Longview, TX 75606**

or

**Jaye Latch**  
**Purchasing Manager**  
**300 W. Cotton St.**  
**Longview, TX 75601**

# REQUEST FOR PROPOSAL

## RFP Cover Page

Issue Date: October 25, 2016  
Title: RFP # 1617-06 Travel Demand Model Services  
Issuing and Using Agency: City of Longview  
Attn: Purchasing Manager  
P.O. Box 1952  
Longview, Texas 75606

**Overview:**

The City of Longview seeks proposals from qualified Proposers for Travel Demand Model Services to provide highly technical tasks regarding the development of the 2013 to 2050 Travel Demand Model. The Longview Metropolitan Planning Organization utilizes a travel demand model in the process of transportation planning, in the evaluation of projects and in the formulation of transportation plans. The travel model is used to analyze the impacts of development on the transportation system.

Proposals for furnishing the services described herein will be received until **2:00 pm (CDT) on November 11, 2016.**

Proposals may be mailed for hand delivered to:

City of Longview Purchasing Division  
300 W. Cotton Street (US Mail P.O. Box 1952, 75606)  
Longview, Texas 75601

Proposals received in the City Purchasing Office after the submission deadline will be considered void and unacceptable. The City of Longview is not responsible for lateness or non-delivery of mail, carrier, etc., and the date/time stamp in the Purchasing Office will be the official time of receipt.

All inquiries for information shall be in writing and be directed to: City of Longview Purchasing Manager at the address listed above, or by phone at (903) 237-1324 or email at [jlatch@longviewtexas.gov](mailto:jlatch@longviewtexas.gov).

### Offer Statement and Business Information

In compliance with this Request for Proposal, and to all conditions imposed therein, and hereby incorporated by reference, the undersigned offers and agrees to furnish the goods/services described herein in accordance with the attached signed proposal, or as mutually-agreed upon in writing signed by both parties pursuant to subsequent negotiation. I hereby certify that the foregoing proposal has not been prepared in collusion with any other offeror or other persons engaged in the same line of business prior to the official receipt of this proposal.

Name of Firm: \_\_\_\_\_ Date: \_\_\_\_\_

Street: \_\_\_\_\_ By: \_\_\_\_\_  
(Authorized Signature in Ink)

City: \_\_\_\_\_ State: \_\_\_\_\_ Name: \_\_\_\_\_  
(Please Print)

Telephone: (\_\_\_\_) \_\_\_\_\_ Title: \_\_\_\_\_

Fax Number: (\_\_\_\_) \_\_\_\_\_ Email Address: \_\_\_\_\_

**Addenda Acknowledged:**

Addendum Numbers: \_\_\_\_\_ Initial: \_\_\_\_\_

## **DEFINITIONS OF WORDS AND TERMS**

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine, and neuter of the words and terms.

Acceptance or Accepted: Written, signed documentation of City of Longview's determination that the Firm's Work expressly specified therein has been completed in accordance with the Contract.

Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications, or corrections to the solicitation documents issued by City of Longview during the solicitation period and prior to contract award.

Administrative Change: Documentation provided by City of Longview to Firm, which reflects internal City of Longview procedures not affecting the Contract terms or Scope of Work.

Best and Final Offer: Best and Final Offer shall consist of the Proposer's revised proposal, the supplemental information, and the Proposer's Best and Final Offer. In the event of any conflict or inconsistency in the items submitted by the Proposer, the items submitted last will govern.

Change Documentation: A written document agreed upon by Project Managers, which if it creates a material change to the Contract term or Scope of Work shall be executed as a Contract Amendment.

Change Order: Written order issued by City of Longview, with or without notice to sureties, making changes in the Work within the scope of this Contract.

Contract Amendment: A written change to the Contract modifying, deleting or adding to the terms or Scope of Work, signed by both parties, with or without notice to the sureties.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between City of Longview and the Firm for completion of the Work.

Contract Period: The period of time during which the Contractor shall perform the Services or Work under the Contract.

Contract Price: The amount payable to the Contractor under the terms and conditions of the Contract for the satisfactory performance of the Services or Work under the Contract.

Contractor/Firm: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with City of Longview for the performance of Services or Work under the Contract. This term shall signify the vendor selected and under contract with City of Longview to provide paratransit transportation services.

Day: Calendar Day.

DBE: Disadvantage Business Enterprise.

DOT: The U.S. Department of Transportation.

Final Acceptance: The point when City of Longview acknowledges by signed writing that the Contractor has performed the entire Work in accordance with the Contract.

Federal Transit Administration (FTA): A branch of the U.S. Department of Transportation (USDOT) established to improve transportation throughout the nation. The FTA provides funding and assistance to local and regional transportation agencies, among various other programs.

Federal Highway Administration (FHWA): A branch of the U.S. Department of Transportation (USDOT) established to improve surface transportation throughout the nation. The FHWA provides funding and assistance to local and regional transportation agencies, among various other programs.

MPO – The Longview Metropolitan Planning Organization is responsible for comprehensive, coordinated and continuing transportation planning for the greater Longview area.

Person: Includes individuals, associations, firms, companies, limited liability companies, corporations, partnerships, and joint ventures.

Purchasing Manager: The individual designated by City of Longview from time to time to administer the Contract and be the Contractor's primary point of contact. The Procurement Administrator will approve orders, receipts, and invoices and document the Contractor's performance, but has no contracting authority. This Person may be the Project Manager.

Project Manager: The individual designated by City of Longview to manage the project on a daily basis, and who may represent City of Longview for Contract Administration. This Contract may be part of a larger City of Longview project.

Proposer/Bidder or Offeror: Individual, association, partnership, firm, company, corporation, limited liability company or a combination thereof, including joint ventures, submitting a bid/proposal to perform the work.

Provide: Furnish without additional charge.

Reference Documents: Reports, specifications, and/or drawings that are available to Proposers for information and reference in preparing bids, but not as part of this Contract.

RFP or Solicitation: Request for Proposal; also known as the solicitation document.

Responsive: Responsive means that the Proposer has complied in every way with all requirements of the RFP. A Responsive determination does not allow for discussion with Proposer. When the Proposal is received, it is either responsive or non-responsive based upon its own merits.

Scope of Work or Statement of Work (SOW): A section of the Request for Proposal consisting of written descriptions of services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

Services: The furnishing of labor, time, or effort by a Contractor, but not involving the delivery of any specific manufactured goods.

Specifications or Technical Specifications: A Section of the Request for Proposal consisting of written descriptions of services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

Submittals: Information that is submitted to the Procurement Administrator in accordance with the Scope of Work/Specifications.

Texas Department of Transportation (TxDOT) is an agency of the State of Texas responsible for transportation throughout the state. The TxDOT Public Transportation Division provides funding and technical assistance to local transit agencies in the state.

Work: Everything to be provided and done for the fulfillment of the Contract and shall include all goods and services specified under this Contract, including Contract Amendments and settlements.

## SECTION 1 – INSTRUCTIONS TO PROPOSERS

### **1-1 Introduction**

The Longview Metropolitan Planning Organization (MPO), acting through the City of Longview Development Services Department and coordinating with the Texas Department of Transportation, is responsible for coordinated, comprehensive and continuing transportation planning in the Longview MPO area as required by the federal legislation, Fixing America's Surface Transportation (FAST) Act. The City of Longview is the fiscal agent for the Longview MPO. One of the functions of the MPO is to formulate and utilize a travel demand model in the process of transportation planning, in the evaluation of projects and in the formulation of transportation plans.

### **1-2 Purpose**

The City of Longview is requesting sealed proposals from qualified proposers for Travel Demand Model Services, primarily for the forecasting and allocation of socioeconomic data assigned to approximately 485 traffic analysis zones for the interim years 2018, 2023, 2028, 2045 and a forecast year of 2050. Secondly, assistance with quality checking and other various work associated with the 2013 base year socioeconomic data is desired. Daytime population for the model base, interim and forecast years will be required.

The Longview Metropolitan Planning Organization (MPO) planning area is located in Gregg, Harrison and Upshur counties and includes the cities of Longview, Lakeport, White Oak, Clarksville City, Warren City, Gladewater, Union Grove, Lakeport and East Mountain. In 2010, the Longview Urbanized Area had a population of 98,884. The Longview Metropolitan Planning Organization (MPO) metropolitan planning area's 2014 population was approximately 119,270. The planning area has a total of 260 square miles. For reference purposes, a map of the Longview MPO planning boundary can be found in Attachment G.

### **1-3 Proposal Submission**

In a single, sealed package, the Proposer will submit one (1) unbound original technical proposal (Mark "Original" on this document), along with eight (8) bound hard copies of the technical proposal, marked as "Technical Proposal – RFP for Travel Demand Model Services", and one (1) electronic flash drive of the technical proposal, in Adobe PDF file format. The Proposer will submit one sealed envelope containing the cost proposal, marked "Cost Proposal – RFP for Travel Demand Model Services". Provide one sealed envelope containing the cost proposal along with all complete affidavits and certifications. Mark "Cost Proposal" on the outside of this envelope. Oversize pages used for drawings or similar purposes are allowed. Each technical proposal copy will be bound together with the required RFP Cover Page and a Vendor Checklist, Attachment A on top. The package containing all originals and copies of all documentation must be clearly marked with the words "RFP #1617-06 Travel Demand Model Services". A label has been provided in this document.

ALL COMPLETED CERTIFICATIONS AND ASSURANCES MUST BE CONTAINED IN THE PROPOSAL PACKAGE, INSIDE THE COST PROPOSAL ENVELOPE.

If no proposal is to be submitted, do not return the solicitation unless otherwise specified. A letter should be sent to the City of Longview Purchasing Manger advising whether future solicitations for the type of supplies or services covered by this solicitation are desired. Failure of the recipient to notify City of Longview that future solicitations are desired may result in removal of the name of such recipient from

the mailing list for the type of supplies or services covered by solicitations.

**1-4 Postponement or Cancellation of Request for Proposal**

The City of Longview reserves the right to cancel, amend, reject any or all submittals or re-issue this RFP at any time, or change the date and time for submitting proposals, by announcing the same prior to the date and time established for proposal submittal.

**1-5 Proposal Signature**

Each proposal shall include the RFP Cover Page signed by a person authorized to bind the Proposer to the terms of the Contract. Proposals signed by an agent are to be accompanied by evidence of that person's authority, unless such evidence has been previously furnished to City of Longview.

**1-6 Addenda**

Any interpretations, corrections or changes to this specification will be made by addenda. Sole issuing authority of addenda shall be vested in City of Longview Purchasing Manager. Addenda can be found on the City of Longview website [www.LongviewTexas.gov/Bids](http://www.LongviewTexas.gov/Bids). It is the responsibility of the proposer to obtain a copy of all addenda pertaining to this RFP. Addenda may also be obtained by calling the City of Longview purchasing office at 903-237-1324.

Receipt and review of Addenda by each Proposer must be acknowledged on the Cover Page. All addenda must be signed and returned with each Proposer's submittal.

**1-7 Schedule**

The projected schedule for this project is:

Issue Request for Proposal	October 25, 2016
Last day for Proposers to submit written questions or clarification, no later than 5:00 P.M. (CDT)	November 4, 2016
Last day for City of Longview MPO to respond to Proposer's written questions or clarification no later than 5:00 P.M. (CDT)	November 8, 2016
Proposal submittal deadline	November 11, 2016
Evaluation of proposals	November 12 - 18, 2016
Award by Longview City Council	December 8, 2016
Approval by MPO Policy Board	December 7, 2016
Anticipated start-up date	December 15, 2016 or as agreed upon

**1-8 Contact Information**

All inquiries for information shall be in writing and be directed to: City of Longview Purchasing Manager, P.O Box 1952, Longview, Texas, 75606 or email at [jlatch@longviewtexas.gov](mailto:jlatch@longviewtexas.gov). Written communication may also be forwarded via facsimile to (903) 291-5323.

### **1-9 Inquiries**

Questions may be submitted on or before the published deadline. The deadline to submit questions is 5:00 p.m. (CDT) November 4, 2016. The Proposer is required to show on all correspondence with City of Longview the following: "RFP # 1617-06 Travel Demand Model Services". Any communication with City of Longview should be written and directed to: Purchasing Manager, City of Longview, P.O. Box 1952, Longview, Texas 75606, or 300 W. Cotton Street, Longview, Texas 75601. Written communication may also be forwarded via facsimile to (903) 291-5323 or email to [jlatch@longviewtexas.gov](mailto:jlatch@longviewtexas.gov). Correspondence will not be accepted by any other party.

### **1-10 Interpretation of RFP and Contract Documents**

No oral interpretations as to the meaning of the RFP will be made to any Proposer. Any explanation desired by a Proposer regarding the meaning or interpretation of the RFP, Scope of Work, etc., must be requested in writing on or before the published date. Any interpretation or change made will be in the form of an addendum to the RFP, Scope of Work, etc., as appropriate, and will be furnished as promptly as possible to all recorded holders of the RFP document and also posted on the City of Longview website, which can be accessed at [www.longviewtexas.gov/bids](http://www.longviewtexas.gov/bids). Addenda may also be obtained by calling the City of Longview Purchasing office at 903-237-1324. All Addenda will become part of the RFP and any subsequently awarded Contract. Oral explanations, statements, or instructions given by City of Longview before the award of the Contract will not be binding upon City of Longview. It is the proposer's responsibility to obtain a copy of all addenda issued.

### **1-11 Examination of RFP and Contract Documents**

Proposers are expected to examine the Scope of Work required, specifications, and schedules, and all instructions to provide services of first quality. Failure to do so will be at the Proposer's risk. The proposal must be high quality in all respects. No advantage will be taken by the Proposer or vendor in the omission of any part or detail, which goes to make the services complete.

The submission of a proposal shall constitute an acknowledgment upon which City of Longview may rely that the Proposer has thoroughly examined and is familiar with the solicitation, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods and services to be provided hereunder. The failure or neglect of a Proposer to receive or examine such documents, statutes, regulations, ordinances, or resolutions shall in no way relieve the Proposer from any obligations with respect to its Proposal or to any Contract awarded pursuant to this RFP. No claim for additional compensation that is based on lack of knowledge or misunderstanding of this RFP, work sites, statutes, regulations, ordinances, or resolutions, will be allowed.

### **1-12 Cost of Submitting Proposal**

City of Longview is not liable for any costs incurred by Proposers in the preparation, presentation, testing, or negotiation of Proposals submitted in response to this solicitation. City of Longview shall be under no obligation to return any response to this RFP or other material submitted as a result of this RFP.

### **1-13 Samples**

Samples of items when called for must be furnished free of expense. Samples must be labeled with the Proposer's name, manufacturer's brand name and number, proposal number, and item reference. Request for return of samples shall be accompanied by instructions, which include shipping authorization and name

of carrier, and must be received within ninety (90) calendar days after proposal opening date. Any expenses associated with sample returns will be the vendor's responsibility. If instructions are not received within this time, the commodities shall be disposed of by City of Longview.

#### **1-14 Modification or Withdrawal of Proposals Prior to Submittal Date and Late Proposals**

At any time before the time and date set for submittal of proposals, a Proposer may request to withdraw or modify its Proposal. Such a request must be made in writing by a person with authority as identified on the RFP Cover Page. All proposal modifications shall be made in writing, executed and submitted in the same form and manner as the original proposal. Any proposal or modification of proposal received at City of Longview's office designated in the solicitation after the exact time specified for proposal receipt will not be considered.

City of Longview reserves the right to extend the procurement period for any reason.

#### **1-15 Errors and Administrative Corrections**

City of Longview will not be responsible for any errors in proposals.

City of Longview reserves the right to allow corrections or amendments to be made that are due to minor administrative errors or irregularities.

#### **1-16 Compliance with RFP Terms and Attachments**

City of Longview intends to award a Contract based on the terms, conditions, and attachments contained in this RFP. Proposers are strongly advised to not take any exceptions. Proposers shall submit proposals, which respond to the requirements of the RFP. An exception is not a response to a RFP requirement. If an exception is taken, a "Notice of Exception" must be submitted with the proposal. The "Notice of Exception" must identify the specific point or points of exception and provide an alternative.

Proposers are cautioned that exceptions to the terms, conditions, and attachments may result in rejection of the proposal.

City of Longview may, at its sole discretion, determine that a proposal with a Notice of Exception merits evaluation. A proposal with a Notice of Exception not immediately rejected may be evaluated, but its competitive scoring may be reduced to reflect the importance of the exception. Evaluation and negotiation will only continue with the Proposer if City of Longview determines that a Contract in the best interest of City of Longview may be achieved.

#### **1-17 Proposal Requirements**

The proposal shall be submitted in two parts:

**Part A.** Technical Proposal, cover letter, RFP cover page (Page 3 of this document) and Attachment A: Vendor Checklist.

**Part B.** Cost Proposal, signed Attachments C through F and a sample contract from Proposer's company. The Cost Proposal must be submitted in a sealed envelope, separate from Part A.

**Part A. Technical Proposal Format**

Technical Proposals shall not be more than 50 pages, letter size paper, and follow the sequence outlined below. To be accepted for evaluation, the response must address all of the required components in sequential order. Failure to provide the requested information or adhere to any stated limitations may result in disqualification of the submitted response. The purpose of the required format is to simplify the submittal preparation and evaluation process and to ensure that all responses receive the same orderly review. Project details are described under Section 2 – Scope of Work.

<u>Section</u>	<u>Topic</u>
1	Cover Letter
2	Firm Profile & Qualifications
3	Project Team
4	Understanding of the Project
5	Proposed Approach & Work Plan
6	Proposed Schedule
7	Related Experience & References

1. Cover Letter: Provide a one or two page cover letter and should provide the following:

- A brief statement of the firm’s understanding of the project
- The name, title, phone number, email address and street address of the person in the firm’s organization who will respond to questions about the submittal
- Highlights of the firm’s qualifications and ability to perform the scope of work

2. Firm Profile & Qualifications: This section should include a description of the firm's qualifications and abilities for performing the proposed work. Provide the following information: firm’s name, email address, website address, mailing address, physical address and phone number. Identify whether or not your firm is a Disadvantaged Business Enterprise, types of services performed, number of years in business, number of employees, the location of the offices that would provide the project services, and a brief statement of the firm’s background, demonstrating longevity and financial stability. Include the signature of the person authorized to bind the proposing firm to the terms of the proposal. The description of the firm and qualifications is limited to six (6) pages. Identify any conditions, such as bankruptcy, pending merger, pending litigation, planned office closures that may impede the Proposer’s ability to complete the project. The firm must also demonstrate its financial capability, including financial resources. This can be satisfied by a letter from the company’s financial institution stating its current financial worthiness and creditability.

3. Project Team: Identify the designated project manager and the project team. Provide an organization chart for the project; an estimate of the hours by personnel and by each task of the RFP, a summary paragraph of the project work to be performed by each proposed staff member and an overall total of staff hours. Resumes that highlight the experience relevant to the specific project responsibilities should be provided for all proposed personnel. There is a two (2) page limitation for each resume. Only submit resumes for individuals who will be actively working on the project. When a firm has been selected, the City of Longview will expect those individuals to be assigned to the project.

4. Understanding of the Project: This section should demonstrate the Proposer's understanding of the project and describe the Proposer’s methods necessary to perform the project work required. This

description should be concise, easy to understand and not a mere duplication of the RFP's scope of services. It is limited to three (3) pages in length.

5. Proposed Approach and Work Plan: The Proposer should present the proposed work plan necessary to complete the work itemized under the scope of services. The MPO welcomes suggestions or enhancements to the requirements outlined in the Scope of Work, but the suggestions, enhancements and other services must meet the minimum requirements as outline in this RFP. The proposed work plan should address each of the specific work tasks described in the scope of services, but Proposers may propose additional work beneficial to completing the work specified. The methodology to be used to accomplish each specific task should be described. All proposed meetings and reviews should be included under each task. Any data or assistance anticipated to be required from the MPO staff should be specified. All final products should be described. There is no page limitation for this section, but Proposers are encouraged to be concise.

6. Proposed Schedule: A proposed schedule for completing each task should be provided; include start and end dates. For each review proposed by the Proposer, the schedule and timeline shall reflect the maximum allowable review time available to maintain the schedule as proposed. The schedule shall also reflect expected dates for deliverables and anticipated timing for review and approval by the Longview MPO and TxDOT.

7. Related Experience & References: A brief description of the firm's most recent contracts for similar work for MPOs or cities similar in size to the Longview MPO. For each project, include the date ranges the work was performed, the name of the client organization, client contact name, address, phone number and email address. Indicate if the firm was the sole Proposer or if the firm collaborated with another Proposer. Additionally, the names of the firm's personnel that participated in the projects listed should be provided. This project list is limited to five (5) pages.

#### **Part B. Cost Proposal Format**

Proposers will submit a total cost of Project A along with a breakdown of the pricing for major tasks required to accomplish Project A. Proposers will do the same for Project B and provide a grand total for all services.

The Cost Proposal must be submitted in a sealed envelope, separate from the Technical Proposal.

#### **1-18 Pricing, Taxes, and Effective Date**

City of Longview is a political subdivision of the State of Texas, therefore, is exempt for all applicable taxes.

The price quoted by the Proposer will not change for a period of one hundred and twenty (120) calendar days, beginning from the date the proposal is opened.

#### **1-19 Rejection of Proposals**

City of Longview reserves the right to accept or reject, in part or in whole, any or all proposals for any or all products and/or services covered in this request and to and waive informalities, defects or

irregularities and to accept such proposal as it deems in the best interest of the City of Longview.

### **1-20 Exclusionary or Discriminatory Specifications**

City of Longview agrees that it will comply with the requirements of 49 U.S.C. Section 5323(h) (2) by refraining from using any federal assistance awarded by the Federal Transit Administration (FTA) to support procurements using exclusionary or discriminatory specifications. City of Longview further agrees to refrain from using State or local geographic preferences, except those expressly mandated or encouraged by federal statute.

### **1-21 Protests by Proposers**

City of Longview will hear and consider a bona fide protest regarding its procurement actions in accordance with the following procedures. City of Longview intends to provide a thorough review of all bona fide RFP protests. City of Longview's primary concern, however, is the timely procurement of needed services. It does not intend to allow the filing of protests to unnecessarily delay the procurement process, especially if the protest involved is vexatious or frivolous in nature. Before filing a formal protest, Proposers are encouraged to first exhaust all alternative methods of resolving the procurement issue by contacting City of Longview informally.

Any Proposer may file a protest with the City of Longview on the basis that the City of Longview has failed to comply with applicable federal or state law or with any material terms of the RFP. The protest must include:

1. The name and address of the protesting party.
2. Identification of the Contract solicitation and/or number.
3. A statement of the grounds for the protest, and in particular the federal or state law or material terms of the RFP alleged to have been violated. This statement should be accompanied by any supporting documentation that the protesting party desires City of Longview to consider in making its decision.
4. All protest documents should be submitted to City of Longview Purchasing Manager, P.O. Box 1952, Longview, Texas 75606. Physical address: 300 W. Cotton St., Longview, Texas 75601

Any protest regarding the solicitation by City of Longview must be filed no later than end of business on November 4, 2016. Any protest filed after that date which raises issues regarding the solicitation will not be considered by City of Longview. This type of protest would include, among others, any claim that the solicitation contained exclusionary or discriminatory specifications or conditions, any challenge to the basis of award, any claim that the solicitation documents or the solicitation process violated applicable federal or state law, or any claim that City of Longview failed to follow the material terms of the solicitation process in the RFP.

The evaluation process, and all evaluation materials associated with this process, shall be considered confidential until final award of the Contract is made. Therefore, any protest regarding the evaluation of proposals and/or award of the Contract must be filed with City of Longview no later than five (5) days after the date of Contract award. Any protest filed after such date which raises

issues regarding the RFP evaluation or award of the Contract will not be considered by City of Longview. This type of protest would include, among others, any challenge to determinations by City of Longview of the responsiveness of a proposal or the responsibility of a Proposer, any claim that the evaluation of proposals violated federal or state law or the material terms of the RFP, or any claim that the party awarded the Contract fraudulently represented itself as a responsible bidder.

City of Longview will not consider any protest which is insufficiently supported, does not include the aforementioned required information, or is not received within the specified time limits.

#### **1-22 City of Longview Protest Procedures**

City of Longview will notify the protesting party upon timely receipt of a protest and may, where appropriate, request additional information and/or documents from the protesting party. City of Longview may, in its discretion, meet with the protesting party to review the matters raised by the protest. The City of Longview shall appoint a Protest Review Committee to hear and review all protests under this RFP. The Protest Review Committee, in its discretion, may hold a formal meeting with the protesting party to allow the protesting party to further detail and explain its protest and its claimed support thereof.

Upon receipt of a timely filed protest regarding the solicitation, City of Longview may, in its discretion, postpone the RFP process until resolution of the protest. If the protest regarding the solicitation involves a claim of unduly restrictive or exclusionary specifications or conditions, City of Longview will, in evaluating the protest, consider both the specific need of the City of Longview for the feature or item challenged and whether competition is negatively impacted by including the specification or condition regarding the feature or item. If the City of Longview determines that such feature or item was included in the specification or condition in order to meet the justified and valid transit needs of the City of Longview and was not unduly restrictive of competition or designed to exclude a particular competitor, then the City of Longview will have grounds to deny the protest.

Upon receipt of a timely filed protest regarding the evaluation of proposals, submitted in response to the RFP, City of Longview may, in its discretion, issue a stop work order, if necessary, until a resolution of the protest, if City of Longview determines that the protesting party has established that there is substantial evidence that there are doubts regarding the responsiveness of a proposal, the responsibility of a Proposer, or the City of Longview compliance with federal or state law or the material terms of the RFP.

City of Longview may, in its discretion, suspend the procurement process upon receipt of a bona fide protest. However, City of Longview reserves the right, notwithstanding the pendency of a protest, to proceed with the appropriate action in the procurement process or under the Contract in the following cases:

1. Where the item or services to be procured are urgently required;
2. Where the City of Longview determines that the protest was vexatious or frivolous; and/or
3. Where delivery of services/goods or performance will be unduly delayed, or other undue harm will occur, by failure to make the award promptly.

After review of a protest submitted under this section, City of Longview will issue a written decision on the basis of the information provided by the protesting party, the result of any meetings with the protesting party, and City of Longview's own investigation. If the protest is upheld, City of Longview will take appropriate action to correct the procurement process and protect the rights of the protesting party, which may include re-solicitation of proposals, revised evaluation of proposals or City of Longview

determinations, or termination of the Contract. If the protest is denied, City of Longview will lift any suspension imposed and proceed with the procurement process for the Contract, as the case may be.

Decisions by City of Longview on protests are final, unless found by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or against the manifest weight of the evidence. No further appeals will be heard by the City of Longview.

The availability of review of protests by the FTA is described in Section 1-24 below. As noted in that section, under FTA's revised procurement guidelines, the role of the federal government in protest review is quite limited.

### **1-23 FTA Protest Procedure**

Under Circular 4220.1F, the FTA has substantially limited its review of protests recognizing that most protest issues are best resolved at the state or local level. The FTA will now only accept protests alleging that City of Longview failed to have written protest procedures, or City of Longview violated its own protest procedures.

If a protest is brought before the FTA on either of these allegations, the only remedy recognized by the FTA under Circular 4220.1F is to require City of Longview to follow its own protest procedures. The FTA does not have the right to change City of Longview's substantive decision by substituting the FTA's judgment for that of City of Longview. Any protest to the FTA must be filed in accordance with requirements contained in FTA Circular 4220.1F and may only be made by an "interested party" with the FTA has defined as "an actual or prospective bidder or offeror whose direct economic interests would be affected by the award of the Contract or by failure to award the Contract or by failure to award the Contract."

No protest may be filed with the FTA if such protest is not received by the FTA within five (5) business days after a final decision under City of Longview's protest procedure.

Any alleged violation of a specified federal requirement that provides an applicable complaint procedure shall be submitted according thereto. Such federal requirements may include the Buy America Requirements (40 C.F.R. Part 661, Section 661.15) and the requirements under the Participation of Minority Business Enterprises in Department of Transportation Program (49 C.F.R. Section 26.107).

### **1-24 Proposal Alternatives**

Proposals shall address all requirements identified in this solicitation. In addition, City of Longview may consider proposal alternatives submitted by Proposers that provide enhancements beyond the RFP requirements. Proposal alternatives may be considered, if deemed to be in City of Longview's best interests. Proposal alternatives must be clearly identified.

### **1-25 Disadvantaged Business Enterprise (DBE) Participation**

Longview Metropolitan Planning Organization and the City of Longview have established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Longview Metropolitan Planning Organization and the City of Longview have received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Longview Metropolitan Planning Organization and the City of Longview have signed an assurance that they will comply with 49 CFR Part 26.

It is the policy of Longview Metropolitan Planning Organization and the City of Longview to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only contractors that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.
7. To require the prime contractor, if subcontracts are let, to take actions as required by 49 CFR Part 26.

Additionally, Proposers will comply with the Longview Metropolitan Planning Organization's DBE policy requirements if subcontractors are hired during the performance of the services.

- a) Placing qualified small and minority businesses, and Women Business Enterprises on the solicitation list;
- b) Assuring that small and minority businesses, and Women Business Enterprises are solicited whenever they are potential sources;
- c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and Women Business Enterprises;
- d) Establishing delivery schedules, where requirements permits, which encourages participation by small and minority businesses, and Women Business Enterprises, and
- e) Using service and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.

#### **1-26 Longview MPO Required Certifications and Regulations**

Proposers will comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this project, including without limitation workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, and licensing laws and regulations. When required, the Proposer shall furnish satisfactory proof of compliance. When requested, the Proposer will be required to sign a Lower Tier Participant Debarment Certification, certifying that the Proposer or any of its principals are not debarred or voluntarily excluded from participation in this service by any federal department or agency. When requested, the Proposer will be required to sign an agreement that it has adopted and does enforce an internal ethics and compliance program which satisfies the requirements of Title 43 of the Texas Administrative Code.

## SECTION 2 – SCOPE OF WORK

### **2-1 Introduction**

The City of Longview seeks proposals from qualified Proposers for Travel Demand Model Services to provide highly technical tasks regarding the development of the Longview Metropolitan Planning Organization 2013 to 2050 Travel Demand Model. The Longview Metropolitan Planning Organization utilizes the travel model as a tool when analyzing the impacts of development on the transportation system. Travel demand model replicates real world conditions and is used to predict future travel patterns and demands based on changes in the transportation system.

The goal of this Scope of Work is to ensure that all participants are fully informed of all project requirements, deliverables and obligations. This document will be used as a portion of a contract for project planning, execution; and once approved, will indicate full acceptance of the Scope of Work.

This section describes the minimum services and deliverables required to complete the project.

### **2-2 Background**

The Longview Metropolitan Planning Organization, acting through the City of Longview Development Services Department, is responsible for continuing, comprehensive and cooperative transportation planning in the Longview Metropolitan Area as required by the Fixing American Surface Transportation (FAST) Act. The Longview MPO is governed by a Transportation Policy Board comprised of elected and non-elected officials from the cities of Longview, White Oak, and Gladewater; and from the counties of Gregg, Harrison and Upshur. The MPO Technical Committee is responsible for professional and technical review and for recommendations to the Policy Board. The Longview MPO is geographically located in the Texas Department of Transportation's Tyler and Atlanta Districts.

The Longview Metropolitan Planning Organization (MPO) is located in Gregg, Harrison and Upshur counties and includes the cities of Longview, Lakeport, White Oak, Clarksville City, Warren City, Gladewater, Union Grove, Lakeport and East Mountain. The 2010 Longview Urbanized Area had a population of 98,884. In 2014, the Longview Metropolitan Area had a population of approximately 119,000.

### **2-3 Scope of Work**

The Longview Travel Demand Model is being developed cooperatively in a collaborative manner by the Longview MPO and the Texas Department of Transportation. The model has a 2013 base year and a 2050 forecast year. Interim years of the model are 2018, 2023, 2028 and 2045. During the development of the model, the Longview MPO is responsible for the socioeconomic data gathering and network coding. The Texas Department of Transportation is responsible for trip generation, trip distribution, trip assignment and model validation. The Longview travel demand modeling area includes all of Gregg County, and small portions of Harrison and Upshur Counties.

The City of Longview is requesting sealed proposals from qualified proposers for Travel Demand Model Services, primarily for the forecasting and allocation of socioeconomic data for the forecast years 2018, 2023, 2028, 2045, and 2050. Additional services are desired for work in order to complete the 2013 base year. The Longview model contains approximately 485 traffic analysis zones. There are no sub-traffic

analysis zones within the Longview model. During the model project, the Longview MPO utilizes ArcGIS, TransCad and Microsoft Excel.

### **Task 1 - Base Year Model**

The City of Longview seeks proposals from qualified Proposers for travel demand model services for the 2013 base year. The majority of the work regarding the 2013 base year socioeconomic data has been performed by MPO staff. The MPO has compiled, verified and allocated all of the employment (basic, service, retail, educational) and special generator employment data to traffic analysis zones. Services to be provided consist of quality checks and quality assurances of the 2013 base year socioeconomic data assigned to 485 traffic analysis zones; and assisting with several base year tasks that are needed to finalize the base year model project.

The 2010 population data was collected and allocated to the 485 traffic analysis zones by MPO staff. Allocating the growth of 2010 population, household size and median income to the year 2013 will be required. A regional distribution table of household income by household size for the base year is needed. Daytime population for the 2013 base year allocated to the traffic analysis zones will be required.

The 2013 employment data categorized by type (basic, retail, service, educational), special generator employment and special generator population has been collected and allocated to the 485 traffic analysis zones by MPO staff.

Specific tasks for the base year project are listed below:

- Perform a quality control check of the 2010 population, number of households, household size, and median income socioeconomic data which MPO staff has allocated to the traffic analysis zones.
- Calculate the growth from 2010 to 2013 for population, number of households, household size, and median income data previously allocated by traffic analysis zone. The source of the 2010 data is from the U.S. Census.
- Perform a quality control check of the 2013 employment data set, gathered from Texas Workforce Commission data, and allocated to traffic analysis zones by MPO staff.
- Calculate 2013 daytime population and allocate to the traffic analysis zones.
- Create a Regional Distribution table of households by household size for the base year 2013.
- Quality control check the MPO's network coding for the 2013 base year.
- Create socioeconomic data maps for the MPO Technical Committee's review and analysis
- Assist with the presentation of the 2013 model data set to the MPO Technical Committee, as needed.
- TransCad software orientation and basic training in Longview for MPO staff.
- After TxDOT-TPP performs model calibration model validation, and returns the completed base year model to the MPO, perform TransCad model review and analysis-

The finalized 2013 base year socioeconomic data set, coding of the 2013 network and a 2013 regional distribution table are due to TxDOT-TPP in January 2017. Currently, it is unknown when TxDOT-TPP will complete calibration and validation process in order to return a completed, base year model to the MPO.

Proposers should ensure that the work described herein is included in their proposed work program, but other tasks may be included if the Proposers believe they are appropriate and justified.

## **Task 2 - Model Forecast**

### **Forecast Estimates and Growth Allocation to Traffic Analysis Zones**

The City of Longview seeks proposals from qualified Proposers to provide travel demand model services in order to develop socioeconomic data for the forecast years of 2018, 2023, 2028, 2045 and 2050. The socioeconomic data types are population, number of households, household size, median income, employment (basic, service, retail, educational) and special generator employment. Services to be provided are the growth allocation of socioeconomic data to the traffic analysis zone level.

- Create control totals for the socioeconomic data types for all forecast years.
- Calculate daytime population by traffic analysis zones for all forecast years.
- Conduct Charrette workshops to assist with allocating growth to traffic analysis zone districts and, subsequently to traffic analysis zones.
- Utilize ArcGIS, TransCad and Excel during the project.
- Provide the network coding for each forecast year.
- Provide a technical documentation that details the technical methods and processes used during the forecast project.
- Presentation to the MPO Technical Committee, two (2) meetings & MPO Policy Board (1) meeting.
- TransCad software orientation and basic training in Longview for MPO staff.

Proposers should ensure that the work described herein is included in their proposed work program, but other tasks may be included if the Proposers believes they are appropriate and justified.

The finalized socioeconomic data set of interim years (2018, 2023, 2028 and 2045) and a forecast year of 2050, network coding, a regional distribution table of households by household size are due to TxDOT-TPP in July 2017.

## SECTION 3 – PROPOSAL EVALUATION AND CONTRACT AWARD

### **3-1 General Information**

The Longview MPO intends to select a firm that demonstrates, in the MPO's opinion, the highest degree of technical merit, expertise and qualifications. Proposers will be required to submit supporting documentation on the technical aspects and cost. The Evaluation Committee may elect to interview Proposers in order to clarify their proposals and/or for the Proposers to make oral presentations. If interviews or presentations are held, the Evaluation Committee may re-evaluate the proposals of those firms interviewed.

### **3-2 Eligibility for Award**

In order to be eligible for award, Proposers must be responsive and responsible.

- A. Responsive proposals are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission, and as to the substance of the resulting Contract. Proposals that do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.
- B. Responsible Proposers are those prospective Contractors who, at a minimum, must:
  - 1. Have adequate financial resources, as required, during performance of the Contract. The company/firm must demonstrate its financial capability, including financial resources. This can be satisfied by a letter from the company's financial institution stating its current financial worthiness and creditability.
  - 2. Have necessary technical capability to perform.
  - 3. Are able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
  - 4. Have a satisfactory record of past performance.
  - 5. Certify that they are not on the U.S. Comptroller General's list of ineligible Contractors.(Attachment D)
  - 6. Demonstrate that they are qualified providers of the services being offered.
  - 7. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

### **3-3 Evaluation of Proposals**

The Evaluation Committee will evaluate the proposals in accordance with the criteria set forth below. The total evaluation points, as separately determined by each Evaluation Committee member, will be added together, and each Proposer will be ranked in numerical sequence, from the highest to the lowest score.

After receipt of all proposals, the Evaluation Committee shall evaluate each proposal using the criteria described in this Section, and may require written clarification to questions raised in the Proposal. The Evaluation Committee may also ask the top proposers from this process to give them a presentation, which will be evaluated using the same criteria as the criteria used for the proposals. Attendance at an interview is at the vendor's expense.

The City of Longview will not be liable for any expense incurred in the preparation of the proposals. The City of Longview shall be under no obligation to return any response to this Request for Proposal or other material submitted as a result of this RFP.

### **3-4 Scoring and Evaluation Criteria**

Proposals will be evaluated by an Evaluation Committee and will be based on the Scope of Work, provided in Section 2, and any addenda thereto, as well as the minimum requirements of the components, warranty service, support and other deliverables of this procurement.

The award of this Contract shall be made to the Proposer whose proposal, in the opinion of the City of Longview, best meets the established criteria listed herein.

The following criterion have been established by which all proposals will be evaluated.

- Staff Qualifications & Experience with Similar Projects (25%) The proposal will be evaluated on the basis of the firm's demonstration of staff qualifications and previous project experience that is a similar in nature and complexity for MPOs that are similar in size and type to the Longview MPO.
- Demonstrated Knowledge of the Work Requirements (20%) The proposal will be evaluated on the basis of the knowledge and work required to accomplish the project. The Proposer must demonstrate a thorough understanding of the services to be provided and the activities required to ensure a high quality master plan.
- Proposed Work Plan, Approach and Project Schedule (25%) The Proposer will describe in detail how it will meet all of the services and deliverables listed in Section 2, Scope of Work. The project work plan and schedule will be evaluated in the choice of a firm, although it is understood that the actual beginning and completion dates are subject to the "notice to proceed".
- Compliance with Instructions (15%) The proposals will be evaluated for the level of compliance with the instructions described in this RFP.
- Cost Proposal (15%) The City of Longview is seeking the highest quality, most professional services available. While cost is certainly an important factor in this Travel Demand Modeling Services procurement; it will not be the sole basis on which proposals are evaluated. The Cost Proposal shall be submitted in a sealed envelope, separate from the Technical Proposal.

### **3-5 Presentations**

Any or all respondents may be invited to make a presentation. If so, the Longview MPO will notify the respondents of the date and time of the presentation. All costs incurred by the respondent in the presentations will be the responsibility of the respondent. After any such presentations, submittals may be evaluated again.

### **3-6 Competitive Range**

The evaluation of proposals may result in reductions of the number of proposals that remain in a competitive range. The competitive range is determined through a preliminary evaluation of proposals, which applies the evaluation criteria as set forth above. The Proposers remaining in the competitive range may be invited to participate in additional evaluations, interviews, Best and Final Offers, or negotiations.

### **3-7 Negotiations**

City of Longview may undertake concurrent negotiations with Proposers determined to be within a competitive range. City of Longview does, however, reserve the right to award a Contract based on the original proposal without any negotiations. The decision to award without negotiation may be made by the City of Longview if, in the opinion of the City of Longview, preliminary evaluation of the proposals received indicates that the best achievable and technically acceptable proposal has been received.

Concurrent negotiations with all Proposers whose proposals are within the competitive range may be conducted by City of Longview. Negotiations may be entered with one (1) or more Proposers to finalize contract terms and conditions. In the event negotiations are not successful, City of Longview may initiate negotiations with another Proposer or other Proposers, or reject all proposals.

Negotiation of a Contract will be in conformance with all applicable federal, state, and local laws, regulations, rules, and procedures. The objective of the negotiations will be to reach agreement on all provisions of the proposed Contract.

### **3-8 Single Proposal Response**

If only one proposal is received in response to the RFP, a detailed cost proposal and analysis of three (3) proposals, if available, awarded to the Proposer within the past two (2) years may be requested of the single Proposer. 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

### **3-9 Contract Award**

The City of Longview is the fiscal agent for the Longview Metropolitan Planning Organization. Contract award, if any, will be made by the City of Longview's City Council, after the Evaluation Committee's rankings and recommendations to the Proposer whose proposal meets the requirements of the RFP, and will be most advantageous to the City of Longview with respect the criteria as evaluated. The City of Longview shall have no obligations until a Contract is executed by both the Proposer and the City of Longview.

Contract award will occur when City of Longview signs the Contract. No other act of the City of Longview shall constitute Contract award. The Contract will establish the Contract value and shall incorporate the terms of this document, but will not be the authorization for Contractor to proceed.

### **3-10 Execution of Contract and Notice to Proceed**

The Proposer to whom the City of Longview intends to award the Contract shall sign the Contract and return it to the City of Longview. Upon authorization by the City of Longview's designee, a Contract will be accepted and executed. Upon receipt by the City of Longview of any required documentation and submittal by the Contractor, a Notice to Proceed will be issued, if appropriate.

If any proprietary, privilege, or confidential information or data is included the Contractor's proposal, each page that contains this information or data should be marked as such (e.g., "Proprietary", "Confidential", "Business Secret" or "Competition Sensitive").

All data, documentation, and innovations developed as a result of these contractual services shall become the property of the City of Longview.

## SECTION 4 – STANDARD CONTRACTUAL TERMS AND CONDITIONS

### **4-1 Administration**

This Contract is between City of Longview and the Contractor, who will be responsible for performing the services described herein. City of Longview is not party to defining the division of work between the Contractor and its subcontractors, if any, and the Scope of Work has not been written with this intent.

The Contractor represents that it has, or will obtain, all duly licensed and qualified personnel and equipment required to perform hereunder. Contractor's performance under this Contract shall be monitored and reviewed by City of Longview's City Manager's office and/or other designated supervisor or agent. Reports and data required to be provided by Contractor shall be delivered to the Assistant City Manager and/or other designated supervisor or agent. Questions by the Contractor regarding interpretation of the terms, provisions, and requirements of this Contract shall be initially addressed to the Purchasing Manager and/or other designated supervisor or agent for response.

### **4-2 Notification of Delay**

The Contractor will notify City of Longview Purchasing Manager and/or other designated supervisor or agent as soon as the Contractor has, or should have, knowledge that an event has occurred which will delay delivery or start-up of services. Within five (5) business days, the Contractor will confirm such notice in writing, furnishing as many details as is available.

### **4-3 Request for Extension**

The Contractor agrees to supply, as soon as such data are available, any reasonable proofs that are required by City of Longview's Purchasing Manager and/or other designated supervisor or agent to make a decision on any request for extension of time. City of Longview's Purchasing Manager and/or other designated supervisor or agent will examine the request and any documents supplied by the Contractor, and will determine if the Contractor is entitled to an extension of time, and the duration of such extension. City of Longview's Purchasing Manager and/or other designated supervisor or agent will notify Contractor of the decision in writing. It is expressly understood and agreed that the Contractor will not be entitled to damages or compensation, and will not be reimbursed for losses, on account of delays resulting from any cause under this provision.

### **4-4 Contract Changes**

Any proposed change in the Contract will be submitted to City of Longview for its prior written approval, and City of Longview will make the agreed upon change(s), if any, by a Contract Amendment. City of Longview may, at any time by written order, and without notice to the sureties, make changes within the general scope of this Contract. No verbal order or other conduct by City of Longview will constitute a Contract Amendment, unless confirmed in writing by City of Longview.

If any such change causes an increase or decrease in the cost or the time required for the performance of any part of the work under this Contract, an equitable adjustment may be made, at the sole discretion of City of Longview, in the Contract price, or delivery schedule, or both, and the

Contract will be modified in writing accordingly. Every Contract Amendment may require a cost/price analysis to determine the reasonableness of the proposed change.

Any claim by Contractor for adjustment under this clause must be asserted within fourteen (14) calendar days from the date of receipt by Contractor from City of Longview of the notification of change. The request for equitable adjustment must be in writing and state the general nature and monetary extent of the claim. City of Longview may require additional supporting documents and cost or price analysis to determine the validity of the claim/request. No claim by Contractor for an equitable adjustment hereunder will be allowed, if asserted after final payment under this Contract. No claim will be allowed for any costs incurred more than twenty (20) calendar days before Contractor gives written notice, as required in this section.

#### **4-5 Contract Amendment Procedure**

- A. **Contract Changes:** Any change in this Contract proposed by Contractor shall be submitted to City of Longview's Purchasing Manager and/or other designated supervisor or agent for approval.
- B. **Written Contract Amendments:** Verbal Contract Amendment are not permitted nor enforceable. No change in this Contract shall be made unless City of Longview or the City of Longview's designated representative gives prior written approval therefore. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the Contract and signed by the City of Longview's designated representative.
- C. **Contract Amendment Procedure:** Within fifteen (15) calendar days after City of Longview's receipt of the written request to modify the Contract, the Contractor shall submit to City of Longview Purchasing Manager and/or other designated supervisor or agent a detailed price and schedule proposal for the work to be performed. This proposal may be accepted or modified by negotiations between the Contractor and City of Longview Purchasing Manager and/or other designated supervisor or agent. If mutually agreed upon, a detailed modification shall be executed in writing by both parties.
- D. **Price Adjustment for Regulatory Changes:** If price adjustment is indicated, either upward or downward, it shall be negotiated between City of Longview and Contractor for changes that are mandatory, as a result of legislation or regulations that are promulgated and become effective between the date of proposal opening and the date of contract performance. Such price adjustment may be modified, where required.

#### **4-6 Instructions by Unauthorized Third Persons**

In accordance with Subsection 4-4, Contract Changes, of the solicitation, City of Longview or the City of Longview's authorized representative are the only persons authorized to make changes within the general scope of the Contract.

Any instructions, written or oral, given to the Contractor by someone other than City of Longview's authorized representative, which are inconsistent with the Contract, shall not constitute an authorized Contract change. Any action on the part of the Contractor, taken in compliance with such instructions, will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

#### **4-7 Cost or Price Analysis**

City of Longview reserves the right to conduct a cost or price analysis for any purchase. City of Longview may be required to perform a cost analysis when competition is lacking for any purchase. Sole source procurements, which result in a single proposal being received, will be subject to a cost analysis, which will include the appropriate verification of cost data, the evaluation of specific elements of costs, and the projection of data to determine the effect on proposal prices. City of Longview may require a Pre-Award Audit and potential Contractors shall be prepared to submit data relevant to the proposed work, which will allow City of Longview to sufficiently determine that the proposed price is fair, reasonable, and in accordance with federal, state, and local regulations. Procurements resulting in a single proposal will be treated as a negotiated procurement, and City of Longview reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If a negotiated price cannot be agreed upon by both parties, City of Longview reserves the right to reject the single proposal. Contract amendments or modifications will be subject to a cost analysis.

#### **4-8 Termination**

##### **A. Termination for Convenience**

The City of Longview may terminate this Contract in accordance with this clause in whole, or from time to time, in part, whenever City of Longview shall determine that such termination is in the City of Longview's best interest. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a Notice of Termination, and except as otherwise directed by City of Longview's representative, the Contractor shall:

1. Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
2. Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
4. Assign City of Longview all of the rights, title, and interest of Contractor under the orders and subcontracts so terminated, in which case City of Longview shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of City of Longview to the extent the City of Longview may require, which approval or ratification shall be final for all the purposes of this clause; and
6. Complete performance of such part of the work as shall not have been terminated by the

Notice of Termination, and take such action as may be necessary, or as City of Longview may direct, for the protection or preservation of the property related to this Contract, which is in the possession of Contractor and in which City of Longview has or may acquire an interest. Settlement of claims under this Termination for Convenience clause shall be in accordance with Paragraphs (c) through (m) of the clause contained in the Federal Acquisition Regulation (FAR) Part 52, Subpart 52.249-2, except that wherever the word "Government" or "Contracting Officer" appears, it shall be deleted and the words "City of Longview" shall be substituted in lieu thereof.

#### **B. Termination for Breach or Default**

City of Longview may, by written Notice of Default to Contractor, terminate the whole or any part of this Contract, if Contractor fails to perform the services within the time specified herein or any extension thereof; or Contractor breaches any warranty provisions of the Contract; or Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and does not cure such failure within a period of ten (10) business days (or such longer period as City of Longview may authorize in writing) after receipt of notice from City of Longview specifying such failure.

If the Contract is terminated in whole or in part for default, City of Longview may procure, upon such terms and in such manner as City of Longview may deem appropriate, services similar to those so terminated. Contractor shall be liable to City of Longview for any excess costs for such similar services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

In the event of any termination, City of Longview shall pay the agreed rate only for services delivered up to the date of termination. City of Longview has no obligation to Contractor, of any kind, after the date of termination. Contractor shall deliver all records, equipment, and materials to City of Longview within five (5) business days of the date of termination. City of Longview may withhold from these amounts any sum the City of Longview determines to be necessary to protect the City of Longview against loss, because of outstanding liens or claims of former lien holders.

If, after Notice of Termination of this Contract is served under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to termination for convenience of City of Longview hereunder.

The rights and remedies of the City of Longview provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Contract.

#### **C. Waiver of Remedies for any Breach**

In the event that City of Longview elects to waive its remedies for any breach by Contractor of any covenant, term, or condition of this Contract, such waiver by City of Longview shall not limit City of Longview remedies for any succeeding breach of that or of any other term, covenant, or

condition of this Contract.

**4-9 Lack of Funds**

This Contract shall not be construed as creating any debt by or on behalf of the City of Longview and all obligations of the City of Longview are subject to the availability of funds. If expected or actual funding is withdrawn, reduced, or limited in any way prior to the expiration date set forth in this Contract, or in any amendment hereto, City of Longview may, upon written notice to Contractor, terminate this Contract in whole or in part. Such termination shall be in accordance with City of Longview's rights to terminate for convenience or default. In addition and notwithstanding anything contained in this Contract to the contrary, in the event the funds appropriated by the City of Longview's governing body in any fiscal period of the City of Longview for any amounts due under this Contract are insufficient therefore, this Contract shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the City of Longview of any kind whatsoever, except as to any amounts herein agreed upon for which funds shall have been appropriated and budgeted.

**4-10 Force Majeure**

The timely receipt of City of Longview's requirements is essential. If the requirements are not received on time in accordance with the delivery schedule, City of Longview may cancel the unfilled portion of the Contract for cause, purchase substitute requirements elsewhere, and recover from Contractor any increased costs thereby incurred, together with all resulting incidental and consequential damages. City of Longview may also terminate for cause, purchase substitute requirements elsewhere, and recover costs and damages for breach of Contractor obligations.

The Contractor shall be entitled to a reasonable extension of time from City of Longview for the delays caused by damage to Contractor's and/or City of Longview's property caused by fire, lightning, earthquakes, tornadoes, and other extreme weather conditions or acts of nature, power failures, riots, acts of civil or military authorities of competent jurisdiction, strikes, lockouts, and any other industrial, civil, or public disturbances beyond the control of the Contractor causing the inability to perform the requirements of this Contract. Any delay, other than those mentioned above, shall constitute a breach of Contractor's contractual obligations.

**4-11 Taxes, Licenses, Laws, and Certificate Requirements**

Contractor shall maintain and be liable for all taxes, fees, licenses, and costs as may be required by federal, state, and local laws, rules, and regulations for the conduct of business by Contractor and any subcontractors. The Contractor shall secure, and at all times maintain, any and all such valid licenses and permits as may be required to provide the services under this Contract. If for any reason, Contractor's required licenses or certificates are terminated, suspended, revoked, lapsed, or in any manner modified from their status at the time this Contract becomes effective, Contractor shall immediately notify City of Longview in writing of such condition.

The Contractor will give all notices and comply with all federal, state, local, and City of Longview laws, ordinances, rules, regulations, standards, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these General

Provisions of the Contract and the other Contract Documents. If the Contract Documents are at variance therewith in any respect, any necessary changes shall be adjusted by appropriate modification. Omission of any applicable laws, ordinances, rules, regulations, standards or orders by City of Longview in the Contract Documents shall be construed as an oversight, and shall not relieve the Contractor from its obligations to meet such fully and completely. Upon request, Contractor shall furnish to City of Longview certificates of compliance with all such laws, orders, and regulations. Contractor shall be responsible for obtaining all necessary permits and licenses required for performance under the Contract.

Applicable provisions of all federal, state, and local laws, and of all ordinances, rules, and regulations shall govern any and all claims and disputes, which may arise between any company submitting a proposal response hereto and City of Longview by and through its officers, employees, and authorized representatives, or any other persons, natural and otherwise, and lack of knowledge by any Contractor shall not constitute a cognizable defense against the legal effect thereof.

#### **4-12 Defective Work, Materials, or Services**

When and as often as City of Longview determines that the work, materials, or services furnished under the Contract are not fully and completely in accordance with any requirement of the Contract, it may give notice and description of such non-compliance to the Contractor. Within seven (7) calendar days of receiving such written notification, the Contractor must supply City of Longview with a written detailed plan, which indicates the time and methods needed to bring the work, materials, or services within acceptable limits of the Contract. City of Longview may reject or accept this plan at its discretion. In the event this plan is rejected, the work, materials, or services will be deemed not accepted, and returned to the Contractor at the Contractor's expense. This procedure to remedy defects is not intended to limit or preclude any other remedies available to the City of Longview by law.

#### **4-13 No Waiver of Warranties or Contractual Rights**

Conducting of tests and inspections, payment for a service, or acceptance of a service by City of Longview shall not constitute a waiver, modification, or exclusion of any express or implied warranty, or any right under this Contract or in law.

#### **4-14 Assignment**

Contractor shall not assign any interest, obligation, or benefit under or in this Contract or transfer any interest in the same, whether by assignment or notation, without the prior written consent of the City of Longview. If an assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of Contractor. Contractor shall also remain liable under the Contract after assignment. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender. An assignment may be conditioned upon the posting of bonds, securities, and the like by the assignee, and the assignee must assume the written Contract and be responsible for the obligations and liabilities of Contractor, known and unknown, under this Contract and applicable law.

City of Longview may assign its rights and obligations under the Contract to any successor to the

rights and functions of the City of Longview, or to any governmental agency, to the extent required by applicable laws or governmental regulations, or to the extent City of Longview deems necessary or advisable under the circumstances.

#### **4-15 Indemnification and Hold Harmless**

To the maximum extent permitted by law, and except to the extent caused by the sole negligence of City of Longview, Contractor shall indemnify, defend, and hold harmless City of Longview, and the City of Longview's appointed officials, officers, officials, agents, and employees, from and against any and all claims, suits, actions, losses, costs, penalties, and damages of any kind or nature whatsoever arising out of, in connection with, or incident to the services provided by or on behalf of Contractor, including, but not limited to, reasonable attorney fees, expert expenses and costs of litigation. In addition, Contractor shall, at City of Longview's option, assume the defense of City of Longview and its officers and employees in all legal or claim proceedings arising out of, in connection with, or incident to such services, and shall pay all defense expenses, including reasonable attorney's fees, expert fees, and costs incurred by City of Longview on account of such litigation or claims. This indemnification obligation shall include, but is not limited to, all claims against City of Longview by an employee or former employee of Contractor or its subcontractors, and Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects City of Longview only, under any industrial insurance act, other than the Worker's Compensation Act, the Disability Benefit Act, or other employee benefit act of any jurisdiction, which would otherwise be applicable in the case of such claim. This indemnification obligation shall also obligate Contractor to protect, indemnify, defend, and save harmless City of Longview, and the City of Longview's appointed officials, officers, officials, agents, and employees from any and all claims or lawsuits alleging a violation of a third party's copyright or patent rights arising out of, or in connection with, Contractor's provision of services under this Contract. Notwithstanding anything provided in this Subsection, City of Longview retains the right to provide its own defense against any suits, claims, or actions, and to assess any costs of such defense to Contractor, including reasonable attorney's fees, expert witness fees, and court costs.

#### **4-16 Applicable Law and Forum**

All work done pursuant to any contract resulting from this RFP will be governed by and construed according to the laws of the State of Texas. This contract is performable in Longview, Texas. Any actions arising heretofore shall be filed in either federal District Court, in the Eastern District of Texas, Tyler Division, state court of appropriate jurisdiction located in Gregg County, Texas.

#### **4-17 Conflicts of Interest and Non-Competitive Practices**

- A. Conflict of Interest – Contractor by entering into this Contract with City of Longview to perform or provide work, services, or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed and/or provided under this Contract, and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees, or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to City of Longview., and take action immediately to eliminate the conflict or to withdraw from this Contract, as the City of Longview may require.

**B. Contingent Fees and Gratuities** – Contractor, by entering into this Contract with City of Longview to perform or provide work, services, or materials, has thereby covenanted:

1. No person or selling agency except bona fide employees or designated agents or representatives of Contractor has been or will be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
2. No gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Contractor or any of its agents, employees, or representatives, to any official, member or employee of City of Longview or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

#### **4-18 Disputes, Claims, and Appeals**

Contractor shall address questions or claims regarding meaning and intent of the Contract in writing to the City of Longview Assistant City Manager within ten (10) calendar days of the date in which Contractor knows or should know of the question or claim. The Assistant City Manager will ordinarily respond to Contractor in writing with a decision, but absent such written response, the question or claim shall be deemed denied upon the tenth day following receipt by the Assistant City Manager.

In the event Contractor disagrees with any determination, decision or denial of the Assistant City Manager, Contractor may, within five (5) calendar days of the date of such determination, decision or denial, appeal the determination, decision or denial in writing to the City Manager. Such written Notice of Appeal shall include all documents and other information necessary to substantiate the appeal.

All such claims, counterclaims, disputes and other matters in question between City of Longview and Contractor that are not resolved through the aforementioned appeal process, or through alternative dispute resolution pursuant to Paragraph 4-19 below, will be decided pursuant to Paragraph 4-16 above.

Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of the Contract and in accordance with the direction of the City of Longview and/or the individual making the decision in the aforementioned appeal process. Failure to comply precisely with the time deadlines under this Subsection as to any claim shall operate as a waiver and release of that claim and an acknowledgment of prejudice to the City of Longview.

#### **4-19 Mediation and Arbitration**

If a dispute arises out of or relates to this Contract, or the breach thereof, and if said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation, conducted by a mutually agreed upon third party mediator. Thereafter, any unresolved controversy or claim arising out of or relating to this Contract, or breach

thereof, may be settled by arbitration in Longview, Texas upon the mutual agreement of the parties, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties to this Contract may seek to resolve disputes pursuant to arbitration, but are not required to do so. Nothing in this paragraph precludes any party from seeking further relief, once the required alternative dispute resolution efforts have failed.

#### **4-20 Reports, Record Retention, Audit Access, and Proof of Compliance with Contract**

- A.** Reports: The Contractor agrees to maintain and make available to the City of Longview those reports required by the U.S. DOT's grant management rules and any other reports the federal government may require. Additionally, the Contractor shall back up all electronic operations and maintenance data, and shall transmit this information to the City of Longview at upon request. The information shall be provided in an operating system language and software program that is compatible with the City of Longview's information technology system. The actual data tables and reports to be supplied by the Contractor shall be determined prior to Contract execution.
- B.** Record Retention: The Contractor agrees that, term of this Contract and for three (3) years thereafter after final payment, it will maintain intact and readily accessible all data, documents, reports, statistics, subagreements, leases, arrangements, third-party contracts or similar agreements of any type, and supporting materials and records relating to this Contract as the federal government may require.
- C.** Audit Access:
1. Federal, state, local, or City of Longview auditors shall have access to Contractor's and its subcontractors' records for the purpose of inspection, cost or price analysis, audit, or other reasonable purposes related to this Contract. Federal, state, local, or City of Longview auditors shall have access to records and be able to copy such records during Contractor's normal business hours. Contractor shall provide proper facilities for such access, inspection, and copying.
  2. Audits may be conducted during or after the Contract period for purposes of evaluating claims by, or payments to, Contractor, and for any other reason deemed appropriate and necessary by City of Longview. Audits shall be conducted in accordance with generally accepted auditing principles and/or federal, state, local, or City of Longview audit procedures, laws, or regulations. Contractor shall fully cooperate with the auditor(s).
  3. If an audit is commenced more than sixty (60) calendar days after the date of final payment for Contract work, City of Longview shall give reasonable notice to Contractor of the date on which the audit shall begin.
- D.** Proof of Compliance with Contract: Contractor shall, upon request, provide City of Longview with satisfactory documentation of Contractor's compliance with the Contract. In addition, Contractor shall permit City of Longview, and if federally-funded, the FTA and the Comptroller General of the United States, or a duly authorized representative, to inspect all work, materials, payrolls, and other data and records involving the Contract.

#### **4-21 Other Public Agency Orders**

Other federal, state, county, and local entities may utilize the terms and conditions established by this Contract. City of Longview does not accept any responsibility or involvement in the purchase orders or contracts issued by other agencies.

#### **4-22 Conflicts of Interest – Current and Former Employees**

City of Longview seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former City of Longview employees in transactions with City of Longview. Consistent with this policy, no current or former City of Longview employee may contract with, influence, advocate, advise, or consult with a third party about a City of Longview transaction, or assist with the preparation of proposals submitted to City of Longview while employed by the City of Longview, or within one (1) year after leaving City of Longview's employment if he/she participated in determining the work to be done or process to be followed while a City of Longview employee.

All Proposers, vendors, or Contractors who anticipate contracting with the City of Longview must identify at the time of offer, such current or former City of Longview employees involved in preparation of proposals, or the anticipated performance of the services, if awarded the Contract. Failure to identify former City of Longview employees involved in this transaction may result in City of Longview denying or terminating this Contract for cause. In addition, after award, Contractor is responsible for notifying City of Longview's Purchasing Manager of current or former City of Longview employees who may become involved in the Contract any time during the term of the Contract.

Furthermore, no member, officer, or employee of City of Longview during their tenure, or for two (2) years thereafter, will have any financial interests, direct or indirect, in this Contract or the proceeds thereof.

#### **4-23 Severability**

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid, and enforceable, and have the intent and economic effect as close as possible to the invalid, illegal, and unenforceable provision.

#### **4-24 Non-Waiver of Breach**

No action or failure to act by City of Longview shall constitute a waiver of any right or duty afforded to City of Longview under the Contract; nor shall any such action or failure to act by City of Longview constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by City of Longview in writing.

#### **4-25 Use of City of Longview's Name in Contractor Advertising or Public Relations**

City of Longview reserves the right to review and approve or disapprove all City of Longview related copy prior to publication. Contractor will not allow City of Longview related copy to be published in Contractor's advertisements or public relations programs until submitting City of Longview related copy and receiving prior written approval from City of Longview. Contractor will agree that published information about City of Longview or its program will be factual, and in no way imply that City of Longview endorses Contractor's firm, service, or product.

**4-26 Storm Water Management:** Contractor shall implement best management practices (BMPs) to prevent storm water pollution to the maximum extent practicable in accordance with the City of Longview's Storm water Management Program. These BMP's include at a minimum:

- Performing regular inspections and maintenance on vehicles & equipment to prevent fluid leaks.
- Implement standard operating procedures (SOPs) for spill prevention and cleanup that include at a minimum the following:
  - 1) arrival of the responsible person or response personnel hired by the responsible person at the site of the discharge or spill;
  - 2) initiating efforts to stop the discharge or spill; including maintaining onsite spill kits
  - 3) minimizing the impact to the public health and the environment;
  - 4) neutralizing the effects of the incident;
  - 5) removing the discharged or spilled substances; and
  - 6) managing the wastes.
- Training and equipping all employees who are present on City property in appropriate actions in accordance with the SOP.
- Provide upon request records of onsite inspections and BMP's.

#### **4-27 Certificate of Interested Parties (Form 1295)**

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

#### **The Filing Process:**

1. Prior to award by City Council, your firm will be required to log in to the Texas Ethics Commission, [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate Number." Your firm must print, sign and notarize Form 1295.
3. **Within seven (7) business days** from notification of pending award by the City of Longview Purchasing Department, the completed Form 1295 **must** be submitted to City of Longview.

4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modification and/or amendments to a City of Longview contract.

Instructions and information are available at <https://www/ethics.state.tx.us/tec/1295-Info.htm> or you may call the Texas Ethics Commission at (512) 463-5800.

**BY SUBMITTING A BID YOUR FIRM AGREES TO ADHERE TO HB 1295 REFERENCED ABOVE**

**Please Note: No action required until notification of potential award by the City of Longview Purchasing Department.**

## **SECTION 5 – SPECIFIC CONTRACTUAL TERMS AND CONDITIONS**

### **5-1 Contract**

A Contract shall be issued referencing this solicitation. Contract(s) shall define and authorize the work by Contractor based on the prices agreed to by City of Longview. The Contract(s) issued by City of Longview may reflect agreed to modification of Contract terms, funding, or other matters subject to Subsection 4-4, Contract Changes. The Contractor will be paid for only work that was performed.

PROPOSERS ARE REQUESTED TO PROVIDE A SAMPLE CONTRACT WHEN RESPONDING TO THE RFP.

### **5-2 Payment Procedures**

Payments will be made upon receipt and acceptance by the city of the item(s) ordered and receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Texas Government Code Chapter 2251. The City's standard payment terms are net 30, i.e. payment is due in 30 days.

### **5-3 Advance Payment Prohibited**

No advance payment shall be made for the work furnished by Contractor pursuant to this Contract.

### **5-4 Warranty Provisions**

- A. No Waiver of Warranties and Contract Rights - Conducting of tests and inspections, review of the Scope of Work, payment for work, or acceptance or final acceptance of the work by the City of Longview shall not constitute a waiver of any rights under this Contract or in law. The termination of this Contract shall in no way relieve the Contractor from its warranty/guarantee responsibility.
- B. Warranty Term - The Contractor warrants that the work performed under this Contract shall conform to all requirements of this Contract. Any work corrected shall be subject to this subsection to the same extent as the work initially provided.

### **5-5 Express Warranties for Services**

The Contractor warrants that the services shall in all material respects conform to the requirements of this Contract. Furthermore, the Contractor warrants that qualified professional personnel with in-depth knowledge shall perform the services in a timely and professional manner; and that the services shall conform to the standards generally observed in the industry for similar services. Finally, the Contractor warrants that the services shall be in compliance with all applicable laws, rules, and regulations.

### **5-6 Independent Status of Contractor**

In the performance of this Contract, the parties shall be acting in their individual, corporate, or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship shall be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. The Contractor shall not make any claim of right, privilege or benefit, which would accrue, to an employee.

### **5-7 Notices**

Any notice which is required to be given hereunder shall conclusively deemed to have been given or rendered and received on the next day after such written notice has been deposited in the mail in Longview, Texas, by Registered or Certified Mail, postage prepaid or by a national overnight courier service to the following addresses:

Purchasing Manager  
City of Longview  
P.O. Box 1952  
Longview, Texas 75606

Contractor Contact and Address (To be determined)

Any notice given hereunder by personal delivery or express mail shall be deemed delivered when received. Any properly addressed notice given herein by certified mail shall be deemed delivered when the return receipt therefore is signed, or refusal to accept the mailing by the addressee is noted thereon by the postal authorities. Either party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

### **5-8 Non-Disclosure of Data**

Data provided by the City of Longview either before or after Contract award shall only be used for its intended purpose. Proposers, vendors, Contractors, and subcontractors shall not utilize or distribute the City of Longview data in any form without the prior express written approval of the City of Longview.

### **5-9 Non-Disclosure Obligation**

While providing the work required under this Contract, the Contractor and/or subcontractors might encounter licensed technology, software, documentation, drawings, schematics, manuals, data, or other materials marked "Confidential," "Proprietary," or "Business Secret." With regard to such information and material received or used in performance of this Contract, Contractor shall itself employ, and cause its subcontractors to employ, practices no less than those used for the protection of the Contractor's own confidential information.

The Contract imposes no obligation upon the Contractor with respect to confidential information which Contractor can establish that: a) was in the possession of, or was rightfully known by the Contractor without an obligation to maintain its confidentiality prior to receipt from the City of Longview or a third party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by the Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by the Contractor without the participation of individuals who have had access to City of Longview's or the third party's confidential information. The Contractor may disclose confidential information if so required by law, provided that the Contractor notifies the City of Longview that the third party of such requirement prior to disclosure.

Contracts shall be considered public documents and, with exceptions provided under public disclosure laws, will be available for inspection and copying by the public.

### **5-10 Public Disclosure Requests**

If a Contractor considers any portion of any documents which may be delivered to the City of Longview pursuant to this Contract to be protected under the law, Contractor shall clearly identify each such item with words such as "Confidential," "Proprietary," or "Business Secret." If a request is made for disclosure of any such document, the City of Longview will submit said document to the Texas Attorney General in accordance with the requirements of the Texas Public Information Act so that the Attorney General may determine whether the document should be made available under the law. If the document or parts thereof are determined by the Texas Attorney General to be exempt from public disclosure, the City of Longview will not release the exempted document. If the document is not exempt from public disclosure law, City of Longview will notify Contractor of the request and allow the Contractor five (5) business days to take whatever action it deems necessary to protect its interests. If Contractor fails or neglects to take such action within said period, City of Longview will release the document deemed subject to disclosure. By signing a Contract, the Contractor assents to the procedure outlined in this paragraph, and shall have no claim against the City of Longview on account of actions taken under such procedure.

### **5-11 Ownership of Data**

Subject to the rights expressly granted to the Contractor pursuant to this Agreement, all rights, title, and interest in and to the data collected and developed during the performance of this Contract shall at all times remain the sole and exclusive property of the City of Longview. The Contractor shall surrender all such data, not previously provided, to the City of Longview.

### **5-12 Patents and Royalties**

The Contractor is responsible for paying all license fees, royalties, or the costs of defending claims for the infringement of any intellectual property that may be used in performing this Contract. Before final payment is made on this Contract, the Contractor shall, if requested by the City of Longview furnish acceptable proof of a proper release from all such fees or claims.

### **5-13 Changed Requirements**

New federal, state, and local laws, regulations, ordinances, rules, policies, and administrative practices may be established after the date this Contract is established, and may apply to this Contract. To achieve compliance with changing requirements, the Contractor agrees to accept all changed requirements that apply to this Contract, and require subcontractors to comply with revised requirements as well. Changed requirements will be implemented through Subsection 3-5, Contract Amendment Procedure.

### **5-14 Counterparts**

This Contract may be signed in two (2) counterparts, each of which shall be deemed an original, and which shall together constitute one (1) Contract.

### **5-15 Contractual Relationships**

No contractual relationship will be recognized under the Contract other than the contractual relationship between the City of Longview and the Contractor.

## SECTION 6 – INSURANCE REQUIREMENTS

### **6-1 Commencement of Work**

The Contractor shall not commence work until all insurance required under this section has been obtained and the proper insurance verification has been provided and approved by the City of Longview.

### **6-2 General Requirements**

All insurance policies shall be written with a company or companies licensed to conduct business within the State of Texas, and holding a current Best's Key Rating of A-VII or better. Contract agrees to name the City of Longview as an additional insured on Commercial General, Business Automobile, and Excess or Umbrella Liability policies by endorsement to the policies. Insurance policies shall be endorsed to give the City of Longview thirty (30) calendar days of advanced written notice [ten (10) calendar days in case of Workers Compensation] of cancellation for any reason, non-renewal, or material change in coverage or limits. In case of non-payment of premium by the Contractor, the City of Longview retains the rights, but is not obligated to pay any premiums and deduct such amounts from any payments due to the Contractor.

There shall be no exclusions for punitive damages in the General or Business Automobile policies.

Complete, certified copies of all insurance policies applicable to this agreement will be sent to the City of Longview within sixty (60) calendar days of each inception or anniversary date, so that these insurance policies may be reviewed by the City of Longview. Until copies are received, Evidence of Coverage in the form of an original Certificate of Insurance shall be submitted to the City of Longview. The Contractor also agrees to have deficiencies in the insurance policies amended as per the directions of the City of Longview or its representative.

### **6-3 Required Coverages**

The Contractor agrees to maintain the following coverages:

- A. Commercial General Liability (Occurrence Form), either singly or in combination with Excess or Umbrella Liability Insurance policy covering all operations, with the following limits:

Each Occurrence (Bodily Injury, Property Damage)	\$ 1,000,000
Personal and Advertising Injury Limit	\$ 1,000,000
General Aggregate Limit	\$ 1,000,000
Products and Completed Operations Aggregate Limit	\$ 1,000,000
Fire Damage Limit	\$50,000
Medical Payments – Any One Person	\$5,000

- B. Business Automobile Policy either singly or in combination with Excess or Umbrella Liability Insurance policy covering all operations, with the following limits:

Owned, Hired, or Non-Owned (Per Accident)	\$ 1,000,000
Uninsured Motorist (Per Accident)	Minimum State Limits

Medical Payments (Each Person)	\$5,000
Comprehensive (\$5,000 Deductible – Maximum)	Actual
Cash Value Collision (\$5,000 Deductible – Maximum)	Actual
Cash Value	

In the case of policies that list specific vehicles or specific drivers, proof of coverage is required to be provided to City of Longview for each vehicle or driver before it can be used in service.

**C. Workers Compensation**

Part A	Statutory
Part B – Employers Liability	
Bodily Injury by Accident	\$500,000
Bodily Injury by Disease (Policy Limit)	\$500,000
Bodily Injury by Disease (Each Employee)	\$500,000

All State and Voluntary Compensation endorsements shall be included in the Workers Compensation policy. Workers Compensation shall be provided to all employees of the Contractor.

- D. Employers Liability Insurance:** Such insurance shall provide limits of not less than \$100,000 per occurrence.
- E. Professional Liability/Errors and Omissions Insurance:** covering acts, errors and omissions arising out of Contractor’s operations or Services in an amount not less than one million dollars (\$1,000,000) per occurrence.

The insurance specified in (a) and (b) above shall: (i) name City, and its employees and agents as additional insureds and, (ii) provide that such insurance is primary coverage with respect to all insureds and additional insureds.

**ATTACHMENT A  
VENDOR CHECKLIST**

(Verification that all necessary documents are included)

**This form must be completed and returned with the Technical Proposal.**

- Cover Letter
- RFP Cover Page
- Attachment A: Vendor Checklist
- Notice of Exception (if applicable) (refer to Section 1-16)
- Technical Proposal

**Submit a separate sealed envelope containing the Cost Proposal and attachments:**

- Attachment B: Cost Proposal
- Attachment C: Conflict of Interest Questionnaire, Form CIQ
- Attachment D: Federal Debarment Certification
- Attachment E: Certification of Internal Ethics and Compliance Program
- Attachment F: Certification of Compliance with the Longview MPO's DBE policy
- Sample contract from Proposer's firm



**ATTACHMENT C**  
**NOTICE TO ALL CITY VENDORS AND POTENTIAL CITY VENDORS**

Texas Senate passed House Bill 23, 84<sup>th</sup> Leg., Regular Session (2015)e In accordance with Chapter 176 of the Local Government Code, The City of Longview is requiring you to complete the attached Conflict of Interest Questionnaire (CIQ) Form, prepared by the Texas Ethics Commission, at the direction of the legislature and strongly recommends you become familiar with House Bill 23. Failure to abide by these new statutory requirements can result in possible criminal penalties.

The City of Longview will not provide any further interpretation or information regarding these new requirements; however, you may contact the Texas Ethics Commission at

<http://www.ethics.state.tx.us/> or at 1-512-463-5800.

Please remit the CIQ form with your bid.

Thank you.

# CONFLICT OF INTEREST QUESTIONNAIRE

# FORM CIQ

## For Vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84<sup>th</sup> Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001 (1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7<sup>th</sup> business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2  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 the 7th business day after the date on which you became aware that the originally filed Questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

\_\_\_\_\_

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor 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.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes  No

B. Is the vendor 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?

Yes  No

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 interest of one percent or more?

Yes  No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4

\_\_\_\_\_

Signature of vendor doing business with the governmental entity

\_\_\_\_\_

Date

Adopted 8/7/2015

**ATTACHMENT D  
FEDERAL DEBARMENT CERTIFICATION**

(1). \_\_\_\_\_, known as a Proposer, certifies that it and

(Company name)

its principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
- b) Have not, within a three (3) year period preceding this proposal, been convicted of, or had a civil judgment rendered against them for a commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- d) Have not, within a three (3) year period, preceding this application/proposal, had one or more federal, state or local transactions terminated for cause or default.

(2). Where the Proposer is unable to certify to any of the statements in this certification, such Proposer will attach an explanation to this certification.

\_\_\_\_\_  
Company's name

\_\_\_\_\_  
Signature of Principal & Title

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

## ATTACHMENT E

### CERTIFICATION OF INTERNAL ETHICS AND COMPLIANCE PROGRAM

The undersigned hereby certifies that it has adopted and does enforce an internal ethics and compliance program that is designed to detect and prevent violations of the law, including regulations and ethical standards applicable to this entity or its officers or employees and that the internal ethics and compliance program satisfies the requirements of Title 43, Texas Administrative Code.

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Company's name

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Signature of Principal

---

Printed name

---

Title

---

Date

**ATTACHMENT F**

**CERTIFICATION OF COMPLIANCE WITH  
THE LONGVIEW MPO'S POLICY FOR DISADVANTAGED BUSINESS ENTERPRISES**

The undersigned hereby certifies that it will comply with the following requirements if subcontractors are hired during the performance of the services, in the event a Proposer is selected:

- f) Placing qualified small and minority businesses, and Women Business Enterprises on the solicitation list;
- g) Assuring that small and minority businesses, and Women Business Enterprises are solicited whenever they are potential sources;
- h) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and Women Business Enterprises;
- i) Establishing delivery schedules, where requirements permits, which encourages participation by small and minority businesses, and Women Business Enterprises, and
- j) Using service and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.

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Company's name

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Signature of Principal

---

Printed name

---

Title

---

Date

# ATTACHMENT G

## LONGVIEW MPO PLANNING AREA MAP

