CITY OF SAN ANTONIO

PURCHASING & GENERAL SERVICES DEPARTMENT

REQUEST FOR COMPETITIVE SEALED PROPOSAL
RFCSP 11-019-WF

for

Enterprise Capital Improvements Project (CIP) Portal

Issued: November 23, 2010
Due: December 28, 2010 – 2 P.M.

This solicitation has been identified as High-Profile.

Notice Regarding Prohibition on Campaign or Officeholder Contributions for Individuals and Entities Seeking High-Profile Contracts. Under Section 2-309 of the Municipal Campaign Finance Code, the following are prohibited from making a campaign or officeholder contribution to any member of City Council, candidate for City Council or political action committee that contributes to City Council elections from the 10th business day after a contract solicitation has been released until 30 calendar days after the contract has been awarded ("black out" period):

1. legal signatory of a high-profile contract;
2. any individual seeking a high-profile contract;
3. any owner or officer of an entity seeking a high-profile contract;
4. the spouse of any of these individuals;
5. any attorney, lobbyist or consultant retained to assist in seeking contract.

A high-profile contract cannot be awarded to the individual or entity if a prohibited contribution has been made by any of these individuals during the "black out" period.

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I. BACKGROUND

The City of San Antonio ("City") is seeking Proposals from qualified Respondents interested in providing the services as described in this RFCSP.

In 2006, Public Works developed a web-based comprehensive project management tool set, commonly referred to as the "Web Portal." The goal of the tool was to improve project delivery, increase accountability and provide the City and Department Management the means to identify projects that need attention and management by exception. The program is hosted on City of San Antonio (COSA) systems and went live on September 15, 2006.

In 2007, the residents of San Antonio voted to approve a historic five-year bond program. The $550 million, five-year bond program, included 151 projects designed to improve, acquire, construct and enhance new and existing local streets, bridges, sidewalks, drainage facilities, parks, athletics facilities, libraries and public health centers. The program's size and scope was enormous and significantly costlier than any previous city bond program.

To help manage these projects, the City of San Antonio formed a new department: the Capital Improvements Management Services (CIMS) Department. CIMS manages the City's Capital Improvement Program projects through all phases of design, construction and inspection. The department also coordinates the consultant selection, construction contractor procurement and project delivery for all capital improvement construction projects.

The current Web Portal is used to manage CIMS and Public Works Capital Improvement Projects and other associated contracts (such as design enhancement, real estate appraisals, material testing, and environmental studies). While a few existing projects may be executed without the use of these tools, all future CIP projects will be managed using the new Enterprise Capital Improvements Project (CIP) Portal.

The CIMS' Reporting and Web Portal division is responsible for the operational/ functional portion of the Web Portal. The purpose of this division is to provide the City's departments (presently, CIMS and Public Works) with centralized project data and encourage project management efficiency. It maintains a user help desk, assigns access, sets up projects, contracts, invoices and workflows and establishes procedures for Web Portal use.

The Reporting and Web Portal division's main responsibilities include:

- Providing Project Managers with an effective and efficient tool (Web Portal) to manage and control projects;
- Providing Management accurate, timely and appropriate information on project statuses through portal metrics, cost-loaded schedules and reports; and,
- Providing Management accurate and timely reports as well as other information that meets their needs.
  The City's Information Technology Services Department maintains the Web Portal program and database.

The current Web Portal is a collection of several different commercial programs that are integrated with each other. It currently supports approximately 950+ user accounts (which include City staff, contractors, consultants, utilities and other city/non-city agencies), 1500 workflow routings and 250± projects/contracts. CIMS uses it to manage all types of contracts and projects including or related to construction, design, on-call delivery (surveying, environmental, engineering and architect), job order contracting, real estate appraisals and material testing.

The Web Portal's current system has provided many operational benefits but it has also has issues with ease of use, system and operational maintenance, reporting and functionality. These restrictions limit CIMS' ability to grow and maintain the system, report and communicate effectively with their contractors, internal staff and external agencies. Because of these issues, the CIMS department is seeking a solution to replace the current Web Portal system which will enable the department to consolidate and streamline their current processes and take the system to a higher level. Goals include: (1) more effective processes, (2) improved insight and analysis, (3) easier use and maintenance and (4) improved monitoring and transparency of the processes.

II. SCOPE OF SERVICES, STATEMENT OF WORK & TECHNICAL REQUIREMENTS

Any information technology components (hardware or software) proposed by the respondent that will interface with any City information systems or information technology infrastructure must comply with the City's current information technology standards identified in Exhibit I.

The selected firm shall provide the following which will include but are not necessarily limited to:

- Provide a hosted Web Portal that meets the requirements document incorporated in this RFCSP through reference;
- Assist the City in establishing procedures and policies that will take advantage of the proposed new system while meeting the City's requirements;
- Configure the proposed new system for the City's use to include developing screens, forms, reports and other items;
- Develop and provide initial training on using the new system that includes:
    - Hands on training (City has a computer training room with 20 stations) for -
        - Portal Help Desk/setup personnel (one class) – detailed training on how to setup and use the system. They will be providing assistance to users, setting up projects and providing follow-on training;
        - Fiscal Personnel (one class) – They process invoices after reviewed by project managers and review SAP updates;
        - Staff and utilities (three classes) – These are project manager/teams and utilities who manage projects;
        - City Inspections (three classes) – Inspectors on the project sites;
        - Contractor/Consultants (two classes).
    - On-line training for users.
- Provide technical support that the CIMS Portal Helpdesk personnel may use to answer questions or receive assistance;
- Maintain and upgrade the system as necessary:
- Assist with migration of existing projects to the new Portal. The current thought is that both the old and new Portals will be maintained for a period of time. All new projects will be created on the new Portal and existing projects may be migrated to the new Portal depending on various factors.

Scope of Services & Technical Requirements are detailed in RFCSP Exhibit 1 - Current Business Processes & Business Requirements Document.

III. STATUTORY REQUIREMENTS

Exceptions to the following provisions and exhibits by Respondent and/or their agent will lead to automatic disqualification of Respondent's proposal from consideration.

Sections:
Venue, Jurisdiction and Arbitration
Intellectual Property
Undisclosed Features
Ownership and Licenses
Certifications
Restrictions on Communication

Exhibits:
Insurance Requirements
Indemnification Requirements

IV. VENUE, JURISDICTION AND ARBITRATION

For any dispute or claim arising under the award of a contract for this proposal, venue shall be in Bexar County, Texas, and the laws of the State of Texas shall apply. The City will not contractually agree to engage in binding arbitration and will not contractually agree to relinquish its right to a trial by jury.

V. INTELLECTUAL PROPERTY

If selected, Respondent agrees to abide by the following regarding intellectual property rights:

Respondent shall pay all royalties and licensing fees. Respondent shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, trademarks, trade secrets, materials and methods used in the project. It shall defend all suits for infringement of any Intellectual Property rights. Further, if Respondent has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

Upon receipt of notification that a third party claims that the program(s), hardware, both the program(s) and the hardware or any other intellectual property infringe upon any United States or International patent, copyright or trademark Respondent will immediately:

1. Either:

    a) obtain, at Respondent 's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, both the programs and hardware or any other intellectual property as the case may be, or,

    b) alter the programs, hardware, or both the programs and hardware so that the alleged infringement is

eliminated, and

c) reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

2. Respondent further agrees to:

a) assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent, copyright, trademark or any other intellectual property rights arising from the use and/or sale of the equipment or software under this Agreement,

b) assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

c) indemnify the City against any monetary damages and/or costs awarded in such suit;

Provided that:

1. Respondent is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Respondent agrees to consult with the City Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City,

2. the Software or the equipment is used by the City in the form, state, or condition as delivered by Respondent or as modified without the permission of Respondent, so long as such modification is not the source of the infringement claim,

3. the liability claimed shall not have arisen out of the City's negligent act or omission, and

4. the City promptly provide Respondent with written notice within 15 days following the formal assertion of any claim with respect to which the City asserts that Respondent assumes responsibility under this section.

VI. UNDISCLOSED FEATURES

RESPONDENT warrants that the code and software provided to the City of San Antonio under any agreement awarded in connection with this RFCSP does not contain any undisclosed features or functions that would impair or might impair the CITY'S use of the equipment, code or software. Specifically, but without limiting the previous representation, selected RESPONDENT shall warrant there is no "Trojan Horse," lock, "time bomb," backdoor or similar routine. This Agreement shall not now nor will it hereafter be subject to the self-help provisions of the Uniform Computer Information Transactions Act or any other law. RESPONDENT specifically disclaims any unilateral self-help remedies

VII. OWNERSHIP AND LICENSES

In accordance with Texas law, Respondent acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with

public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on the behalf of Respondent pursuant to this Contract shall be the subject of any copyright or proprietary claim by Respondent.

The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

Respondent acknowledges and agrees that all local government records, as described in herein, produced in the course of the work required by any contract awarded pursuant to this RFCSP, will belong to and be the property of City. Respondent, if awarded this contract, will be required to turn over to City, all such records as required by said contract. Respondent, if awarded this contract, shall not, under any circumstances, release any records created during the course of performance of the contract to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.

In accordance herewith, Respondent, if selected, agrees to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

VIII. CERTIFICATIONS

Respondent warrants and certifies that Respondent and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

IX. RESTRICTIONS ON COMMUNICATION

A. Respondents are prohibited from communicating with elected City officials and their staff regarding the RFCSP or Proposals from the time the RFCSP has been released until the contract is posted as a City Council agenda item. Respondents are prohibited from communicating with City employees from the time the RFCSP has been released until the contract is awarded. These restrictions extend to "thank you" letters, phone calls, emails and any contact that results in the direct or indirect discussion of the RFCSP and/or Proposal submitted by Respondents. Violation of this provision by Respondent and/or their agent may lead to disqualification of Respondent's proposal from consideration. Exceptions to the restrictions on communication with City employees include:

1. Respondents may ask verbal questions concerning this RFCSP at the Pre-Submittal Conference.

2. Respondents may submit written questions concerning this RFCSP to the Staff Contact Person listed below 2:00 p.m., local time, on Friday, December 10, 2010. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by certified mail, return receipt requested, to:

William Flint, Senior Procurement Specialist
City of San Antonio, Purchasing and General Services Department
Riverview Towers
111 Soledad, Suite 1100
San Antonio, TX 78205

However, electronic submissions of questions by e-mail will also be accepted at william.flint@sanantonio.gov. Please pay attention to the TIME STAMP of your email and submit at least 30 minutes prior to deadline CST time. The City server's Time Stamp will rule and shall be the Official Time of Submission. The City is on Central Standard Time.

3. Respondents and/or their agents are encouraged to contact the Small Business Office of the International and Economic Development Department for assistance or clarification with issues specifically related to the City's Small Business Economic Development Advocacy Program policy and/or completion of the Good Faith Effort Plan form. The point of contact is Mr. Ram Srinivasan. Mr. Srinivasan may be reached by telephone at (210) 207-0071 or by e-mail at ram.srinivasan@sanantonio.gov. Respondents and/or their agents may contact Mr. Ram Srinivasan at any time prior to the due date for submission of proposals. Contacting him or his office regarding this RFCSP after the proposal due date is not permitted.

4. Respondents may provide responses to questions asked of them by the Staff Contact Person named above in A-2 after responses are received and opened. During interviews, if any, verbal questions and explanations will be permitted.

B. The City reserves the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such is deemed desirable by City.

C. City Code Article VII, Section 2-309 provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a "high profile" discretionary contract, as defined by the City of San Antonio, may not make a political contribution to any councilmember or candidate at any time from the time the person submits the response to the solicitation until 30 calendar days following the contract award. Any legal signatory for a proposed high-risk contract must be identified within the response to this solicitation, if the identity of the signatory will be different from the individual submitting the response.

If the legal signatory entering into the contract has made such a contribution, the City may not award the contract to that contributor or to that contributor's business entity. Any contract awarded in violation of this provision shall be voidable at the discretion of the City Council.

The City has identified this solicitation as "high profile".

X. PRE-SUBMITTAL CONFERENCE

A Pre-Submittal Conference will be held on Tuesday, December 7, 2010 in the Purchasing & General Services' Main Conference Room, 111 Soledad, Suite 1100, San Antonio, Texas 78205. The Pre-Submittal Conference will run from 1:00 PM to 4:00 PM.

Respondents are encouraged to prepare and submit their questions in writing three (3) calendar days in advance of the Pre-Submittal Conference in order to expedite the proceedings. City's responses to questions received by this due date may be distributed at the Pre-Submittal Conference and posted on the City's website at http://epay.sanantonio.gov/RFPListings/. Attendance at the Pre-Submittal Conference is optional.

This meeting place is accessible to disabled persons. The Pre-Submittal Conference location is wheelchair accessible. The accessible entrance is located at Riverview Towers Building, 111 Soledad, San Antonio, Texas 78205. Accessible parking spaces are located at Riverview Towers Building, 111 Soledad. Auxiliary aids and services are available upon request. Interpreters for the Deaf must be requested at least 48 hours prior to the meeting. For assistance, call (210) 207-7245 Voice/TTY.

Any oral responses provided by City staff at the Pre-Submittal Conference shall be preliminary. A written summary of the Pre-Submittal Conference shall contain official responses, if any. Any oral response given at the Pre-Submittal Conference that is not confirmed in the written summary of the Pre-Submittal Conference or by a subsequent addendum shall not be official or binding on the City. Only written responses shall be official and all other forms of communication with any officer, employee or agent of the City shall not be binding on the City.

XI. ADDENDUMS TO RFCSP

Addendums regarding this RFCSP will be posted on the City's website at http://epay.sanantonio.gov/RFPListings/. It is Respondent's responsibility to review this site and ascertain whether any addendums have been made prior to submission of a proposal. A Respondent who does not have access to the Internet, must notify City in accordance with Section IX, Restrictions on Communication, that Respondent wishes to receive copies of addendums to this RFCSP by mail.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFCSP, and changes to the RFCSP – if any – shall be made by addendum only.

The only avenue for making changes to this RFCSP is a published Addendum. Addendums are posted to the City's website and to http://www.demandstar.com/. If there is a conflict between anything contained on the City's website, Demandstar, and/or the signed and issued Addendum, then the Addendum will control.

XII. PROPOSAL REQUIREMENTS

Respondent's Proposal shall include the following items in the following sequence:

PROPOSAL: Prepare and submit the Proposal based on the requirements stated in this RFCSP. (ATTACHMENT A-1)

RESPONDENT REQUIREMENT EVALUATION FEEDBACK: Submit the Vendor Feedback Form (attached separately) to this RFCSP. (ATTACHMENT A-2)

RESPONDENT QUESTIONNAIRE: Complete and submit the Respondent Questionnaire. (ATTACHMENT B)

DISCRETIONARY CONTRACTS DISCLOSURE: Complete, sign and submit the Discretionary Contracts Disclosure Form. (ATTACHMENT C)

LITIGATION DISCLOSURE: Complete and submit the Litigation Disclosure Form. If Respondent is proposing as a team or joint venture, then all persons or entities who will be parties to the contract (if awarded) shall complete and return this form with the proposal. (ATTACHMENT D)

SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY FORM: Complete, sign and submit the Good Faith Effort Plan form. (ATTACHMENT E)

PRICING SCHEDULE: Complete and submit the Pricing Schedule. (ATTACHMENT F)

ADDITIONAL PROJECT DOCUMENTS: Please complete and return with Proposal Packet, (ATTACHMENT G)

SIGNATURE PAGE: Complete, sign and submit the Signature Page. The Signature Page must be signed by a person, or persons, authorized to bind the entity, or entities, submitting the proposal. (ATTACHMENT H)

PROPOSAL CHECKLIST: Complete and submit the Proposal Checklist. (ATTACHMENT I)

PROOF OF INSURABILITY: Obtain and submit a letter from Respondent's insurance provider stating provider's commitment to insure the Respondent for the types of coverage and at the levels specified in this RFCSP if awarded a contract in response to this RFCSP. Respondent shall also submit a copy of their current insurance certificate.

ADDENDUMS: Respondent must sign and submit a copy of all Addendums requiring signatures as posted on the City's website at http://epay.sanantonio.gov/RFPListings/ or http://www.demandstar.com/. Addendums not requiring signatures do not need to be submitted.

Respondent is expected to examine this RFCSP carefully, understand the terms and conditions for providing the services listed herein and respond completely. FAILURE TO COMPLETE AND PROVIDE ANY OF THESE DOCUMENTS MAY RESULT IN THE RESPONDENT'S PROPOSAL BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.

XIII. SUBMISSION OF PROPOSALS

A. Respondent shall submit: One (1) original, signed in ink, ten (10) copies of the proposal, and two (2) compact disk (CD) containing an Adobe PDF version of the entire proposal. Respondent shall submit these items in a sealed package, clearly marked on the front of the package: ***RFCSP 11-019-WF: Enterprise Capital Improvements Project (CIP) Portal***.

All proposals must be received in the City Clerk's Office no later than ***2:00 P.M.*** **Central Time,** on ***Tuesday, December 28, 2010*** at the address below. Proposals submitted prior to the above time and date may be modified provided such modifications are sealed and received by the City Clerk's Office prior to the time and date set for submission of proposals. Any proposal or modification received after this time shall not be considered, and will be returned, unopened to the Respondent. Respondents should note that delivery to the P.O. Box address in a timely manner does not guarantee its receipt in the City Clerk's Office by the deadline for submission. Therefore, Respondents should strive for early submission to avoid the possibility of rejection for late arrival.

Mailing Address:
City Clerk's Office
Attn: *Purchasing and General Services*
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address:
City Clerk's Office
Attn: *Purchasing and General Services*
100 Military Plaza
2nd Floor, City Hall
San Antonio, Texas 78205

Proposals sent by facsimile or email will not be accepted.

B. Proposal Format: Each proposal shall be typewritten, single spaced and submitted on 8 ½" x 11" white paper *with original placed inside a three ring binder and each copy to be securely bound in a more economical fashion (i.e. – heat bond, spiral bond, etc.).* The use of recycled paper and materials is encouraged. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials beyond that sufficient to present a complete and effective submission are not required. Font size shall be no less than 12-point type. All pages shall be numbered and printed *two-sided*. Margins shall be no less than 1" around the perimeter of each page. A proposal may not exceed 75 pages in length. Electronic files, websites, or URLs shall not be submitted in lieu of the printed proposal. Each proposal must include the sections and attachments in the sequence listed in the RFCSP Section XII, Proposal Requirements, and each section and attachment must be indexed and divided by tabs and indexed in a Table of Contents page. Failure to meet the above conditions may result in disqualification of the proposal or may negatively affect scoring.

C. Respondents who submit proposals to this RFCSP shall correctly state the true and correct name of the individual, proprietorship, corporation, and /or partnership (clearly identifying the responsible general partner and all other partners who would be associated with the contract, if any). No nicknames, abbreviations (unless part of the legal title), shortened or short-hand, or local "handles" will be accepted in lieu of the full, true and correct legal name of the entity. These names shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings. Corporate Respondents and limited liability company Respondents shall include the 11-digit Comptroller's Taxpayer Number on the General Information form found in this RFCSP as Attachment B.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the General Information form, the Director of Purchasing & General Services shall have the discretion, at any point in the contracting process, to suspend consideration of the proposal.

D. All provisions in Respondent's proposal, including any estimated or projected costs, shall remain valid for one hundred twenty (120) days following the deadline date for submissions or, if a proposal is accepted, throughout the entire term of the contract.

E. All proposals become the property of the City upon receipt and will not be returned. Any information deemed to be confidential by Respondent should be clearly noted on the page(s) where confidential information is contained; however, the City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Respondent may not be considered confidential under Texas law, or pursuant to a Court order.

F. Any cost or expense incurred by the Respondent that is associated with the preparation of the Proposal, the Pre-proposal conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.

XIV. EVALUATION CRITERIA

The City will conduct a comprehensive, fair and impartial evaluation of all Proposals received in response to this RFCSP. The City may appoint a selection committee to perform the evaluation. Each Proposal will be analyzed to determine overall responsiveness and qualifications under the RFCSP. Criteria to be evaluated may include the items listed below. The selection committee may select all, some or none of the Respondents for interviews. If the City elects to conduct interviews, Respondents may be interviewed and re-scored based upon the same criteria. The City may also request additional information from Respondents at any time prior to final approval of a selected Respondent. The City reserves the right to select one, or more, or none of the Respondents to provide services. Final approval of a selected Respondent is subject to the action of the City of San Antonio City Council. The Evaluation Criteria are:

A. Proposed Solution (45 %).

B. Experience, Background, Qualifications (20 %)

C. Pricing (15 %)

D. Small Business Economic Development Advocacy Program (SBEDA) (20 points):

1. A maximum of ten percentage (10) points for Local Business Enterprises (LBEs).

   Prime contractors who have a local branch office will receive six percent (6%) of the selection points.

   Non-local prime contractors can receive points for subcontracting with local businesses proportional to the amount of work performed by those local subcontractors (i.e. – 50% to local = 5 points). (For example, if a non-local prime contractor subcontracts with a local subcontractor for 50% of the work, they are eligible for up to five points).

2. A maximum of five percentage (5%) points for companies designated as Historically Underutilized Enterprises (HUEs).

   Prime contractors who subcontract with HUEs can receive points proportional to amount of work performed by those HUEs (i.e. – 50% to HUEs = 2.5 points). (For example, if a prime contractor subcontracts with a small, minority and/or a small, woman business enterprise for 50% of the work, they are eligible for up to 2.5 points).

   S/MBEs and/or S/WBEs must be certified by the South Central Texas Regional Certification Agency, the City's certifying agency, or approved by the Director of International and Economic Development or designee to be considered HUEs.

3. A maximum of five percentage (5%) points for Prime Contractor compliance with the SBEDA Program policy:

   a. One percent (1%) for submission/approval of the SBEDA form.
   b. One percent (1%) for meeting/exceeding the MBE goal.
   c. One percent (1%) for meeting/exceeding the WBE goal.
   d. One percent (1%) for meeting/exceeding the AABE goal.
   e. One percent (1%) for meeting/exceeding the SBE goal.

XV. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

A. City reserves the right to award one or no contract(s) in response to this RFCSP.

B. The Contract, if awarded, will be awarded to the Respondent(s) whose Proposal(s) is deemed most advantageous to City, as determined by the selection committee, upon approval of the City Council.

C. City may accept any Proposal in whole or in part. If subsequent negotiations are conducted, they shall not constitute a rejection or alternate RFCSP on the part of City. However, final selection of a Respondent is subject to City Council approval.

D. City reserves the right to accept one or reject any or all proposals received in response to this RFCSP, and to waive informalities and irregularities in the proposals received. City also reserves the right to terminate this RFCSP, and reissue a subsequent solicitation, and/or remedy technical errors in the RFCSP process.

E. City will require the selected Respondent(s) to execute a contract with the City, prior to City Council award. No work shall commence until City signs the contract document(s) and Respondent(s) provides the necessary evidence of insurance and performance bond as required in this RFCSP and the Contract. Contract documents are not binding on City until approved by the City Attorney. In the event the parties cannot negotiate and execute a contract within the time specified, City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.

F. This RFCSP does not commit City to enter into a Contract, award any services related to this RFCSP, nor does it obligate City to pay any costs incurred in preparation or submission of a proposal or in anticipation of a contract.

G. If selected, Respondent will be required to comply with the Insurance and Indemnity Requirements established herein.

H. The successful Respondent must be able to formally invoice the City for services rendered, incorporating the SAP-generated contract and purchase order numbers which shall be provided by the City.

I. Conflicts of Interest. Respondent acknowledges that it is informed that the Charter of the City and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with City or any City agency such as City-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: the City officer or employee; his parent; child or spouse; a business entity in which he or his parent, child or spouse owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity; or a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

J. Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of the City, as defined in Section 2-43 of the City's Ethics Code. (Discretionary Contracts Disclosure – Attachment C)

K. Independent Contractor. Respondent agrees and understands that, if selected, it and all persons designated by it to provide services in connection with a contract, is (are) and shall be deemed to be an independent contractor(s), responsible for its (their) respective acts or omissions, and that City shall in no way be

responsible for Respondent's actions, and that none of the parties hereto will have authority to bind the others or to hold out to third parties, that it has such authority.

L. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us <http://www.ethics.state.tx.us>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk. If mailing a completed conflict of interest questionnaire, mail to: Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. If delivering a completed conflict of interest questionnaire, deliver to: Office of the City Clerk, City Hall, 2nd floor, 100 Military Plaza, San Antonio, TX 78205

XVI. SOFTWARE ESCROW REQUIREMENT

To ensure that the City will have access to the Contractor's source code in the event that the Contractor is unable to support the software, a copy of the Contractor's source code shall be kept by a trusted third party agreeable to the City. A Software Escrow Agreement, attached as RFCSP EXHIBIT 4 shall be submitted to evidence the deposit of the source code and the maintenance of the escrow account. The Contractor may submit its own Software Escrow Agreement, provided it is in substantially similar form to the attached RFCSP EXHIBIT 4, in the determination of the City.

XVII. PRIORITY OF DOCUMENTS PROVISION

In the event of a conflict in the provisions of this document and any other document attached or added and agreed upon subsequent to the submission of this document, at any time during the evaluation process or during the performance of the agreement or extensions, the provisions of this document shall control, regardless of any term or condition stating otherwise. When conflicting provisions occur, the order of priority in resolving these provisions shall be as follows:

1. This Document
2. Addendiums

XVIII. SCHEDULE OF EVENTS

Following is a list of **projected dates/times** with respect to this RFCSP:

RFCSP Issue Date	November 23, 2010
Pre-Submittal Conference	December 7, 2010
Final Questions Accepted	December 10, 2010 (by 2 P.M.)
Proposals Due	December 28 2010 (by 2 P.M.)

RFCSP EXHIBIT 1

CURRENT BUSINESS PROCESSES & BUSINESS REQUIREMENTS DOCUMENT

Document posted separately

RFCSP EXHIBIT 2

INSURANCE REQUIREMENTS

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INSURANCE REQUIRMENTS

INSURANCE REQUIRMENTS

Prior to the commencement of any work under an Agreement awarded pursuant to this RFCSP, the selected Respondent shall furnish a completed Certificate(s) of Insurance to the *Purchasing & General Services Department*, which shall be clearly labeled *Enterprise Capital Improvements Project (CIP) Portal* in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, containing all required information referenced or indicated thereon. The Certificate(s) or form must have the agent's signature and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under said Agreement until such Certificate shall have been delivered to the *Purchasing & General Services Department*, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

The City reserves the right to review these insurance requirements during the effective period of the Agreement and any extension or renewal thereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager, based upon changes in statutory law, court decisions or circumstances surrounding the Agreement, but in no instance will City allow modification whereupon City may incur increased risk.

Respondent's financial integrity is of interest to the City, and, therefore, subject to Respondent's right to maintain reasonable deductibles in such amounts as are approved by the City, Respondent shall obtain and maintain in full force and effect, for the duration of the Agreement, and any extension thereof, at Respondent's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M. Best's rating of no less than A-(VII), In the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory $500,000/$500,000/$500,000
3. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Technology Errors and Omissions – with Cyberrisk coverage either by endorsement or stand alone policy.	$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services. Claims made policies are to be maintained

	and in effect for no less than two years subsequent to the completion of the professional services

Respondent agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Respondent herein, and provide a certificate of insurance and endorsement that names the Respondent and the City as an additional insured. Respondent shall provide the City with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

The City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies. Respondent shall be required to comply with any such requests and shall submit a copy of the replacement Certificate of Insurance to City at an address provided below by City within ten (10) days of the requested change. Respondent shall pay any costs incurred resulting from said changes.

City of San Antonio
Purchasing & General Services Department
Enterprise Capital Improvements Project (CIP) Portal
P.O. Box 839966
San Antonio, Texas 78283-3966

Respondent agrees that, with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

1. Name the City and its officials, employees, volunteers and elected representatives as <u>additional insured by endorsement</u> as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability polices;

2. Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

3. Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the City.

4. Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Respondent's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement

In addition to any other remedies the City may have upon Respondent's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Respondent to stop work under the Agreement, and/or withhold any payment(s) which become due to Respondent thereunder until Respondent demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which Respondent may be held responsible for payments of damages to persons or property resulting from Respondent's or its subcontractors' performance of the work covered under the Agreement. It is agreed that Respondent's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this contract.

It is agreed that Respondent's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided .

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement

RFCSP EXHIBIT 3

INDEMNIFICATION REQUIREMENTS

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INDEMNIFICATION REQUIREMENTS

INDEMNIFICATION

BIDDER covenants and agrees to FULLY INDEMNIFY, DEFEND, and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to BIDDER'S activities under this contract, including any acts or omissions of BIDDER, any agent, officer, director, representative, employee, consultant or subcontractor of BIDDER, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this contract. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT BIDDER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. BIDDER shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or BIDDER known to BIDDER related to or arising out of BIDDER's activities under this contract, and shall see to the investigation and defense of such claim or demand at BIDDER's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving BIDDER of any of its obligations under this paragraph.

RFCSP EXHIBIT 4

ESCROW AGREEMENT

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ESCROW AGREEMENT

This agreement ("Agreement") is effective _____, 20__ among _____ ("Custodian"), Respondent's Name ("Depositor") and the City of San Antonio ("Preferred Beneficiary"), who collectively may be referred to in this Agreement as the parties ("Parties").

A. Depositor and Preferred Beneficiary have entered or will enter into an Annual Contract for Name of Project between the City of San Antonio and Respondent's Name, regarding certain proprietary technology of Depositor (referred to in this Agreement as "the License Agreement").

B. Depositor desires to avoid disclosure of its proprietary technology except under certain limited circumstances.

C. The availability of the proprietary technology of Depositor is critical to Preferred Beneficiary in the conduct of its business and, therefore, Preferred Beneficiary needs access to the proprietary technology under certain limited circumstances.

D. Depositor and Preferred Beneficiary desire to establish an escrow with Custodian to provide for the retention, administration and controlled access of the proprietary technology materials of Depositor.

E. The parties desire this Agreement to be supplementary to the Annual Contract for Name of Project between the City of San Antonio and Respondent's Name, pursuant to 11 United States [Bankruptcy] Code, Section 365(n).

ARTICLE 1 -- **DEPOSITS**

1.1 Obligation to Make Deposit. Upon the signing of this Agreement by the parties, Depositor shall deliver to Custodian the proprietary technology and other materials ("Deposit Materials") required to be deposited by the License Agreement. Custodian shall have no obligation to either party with respect to the preparation, accuracy, execution or delivery of Deposit Materials.

1.2 Identification of Tangible Media. Prior to the delivery of the Deposit Materials to Custodian, Depositor shall conspicuously label for identification each document, magnetic tape, disk, or other tangible media upon which the Deposit Materials are written or stored. Additionally, Depositor shall complete a copy of Exhibit A to this Agreement by listing each such tangible media by the item label description, the type of media and the quantity. Each Exhibit A shall be signed by Depositor and delivered to Custodian with the Deposit Materials. Unless and until Depositor makes the initial deposit with Custodian, Custodian shall have no obligation with respect to this Agreement, except the obligation to notify the parties regarding the status of the account as required in Section 2.2 below.

1.3 Acceptance of Deposit. Custodian will conduct a deposit inspection upon receipt of any Deposit Material and associated Exhibit A by visually matching the labeling of the tangible media containing the Deposit Materials to the item descriptions and quantity listed on Exhibit A. Depositor shall provide notice by electronic mail, telephone, or regular mail to the Depositor and Beneficiary of all Deposit Material that is accepted and deposited into the escrow account under this Agreement. If Custodian determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit A attached hereto, Custodian will provide Depositor with notice by electronic mail, telephone, or regular mail of such discrepancies. Custodian will work directly with the Depositor to resolve any such discrepancies prior to accepting Deposit Material. Other than Custodian's inspection of the Deposit Materials, Custodian shall have no obligation to the accuracy, completeness, functionality, performance or non-performance of the Deposit Materials.

1.4 Depositor's Representations. Depositor represents as follows:

a. Depositor lawfully possesses all of the Deposit Materials deposited with Custodian;

b. With respect to all of the Deposit Materials, Depositor has the right and authority to grant to Custodian and Preferred Beneficiary the rights as provided in this Agreement;

c. As of the effective date of this Agreement, the Deposit Materials are not the subject of a lien or encumbrance, however, any liens or encumbrances made after the execution of this Agreement will not prohibit, limit, or alter the rights and obligations of Custodian under this Agreement;

d. The Deposit Materials consist of the proprietary technology and other materials identified in the License Agreement; and

e. The Deposit Materials are readable and useable in the appropriate technical environment their current form or, if any portion of the Deposit Materials is encrypted, the decryption tools and decryption keys have also been deposited.

f. The Deposit Materials include the source code corresponding to the computer software licensed by Depositor to Preferred Beneficiary under the License Agreement, except for third-party software that Depositor has no right to provide to Custodian or to Preferred Beneficiary in source code form. Either the License Agreement or Exhibit A properly identifies all third-party software embedded in or associated with the computer software licensed by Depositor to Preferred Beneficiary under the License Agreement that is not included in the Deposit Materials. The Deposit Materials include any pertinent commentary or explanation that may be necessary to render the source code understandable and useable by a trained computer-programming expert who is generally familiar with Fire Incident Report Systems and program code. The Deposit Materials include system documentation, statements of principles of operation and schematics, all as necessary or useful for the effective understanding and use of the source code. Insofar as the "development environment" employed by Depositor for the development, maintenance, and implementation of the Source Code includes any device, programming, or documentation not commercially available to Preferred beneficiary on reasonable terms through readily known sources other than Depositor, the Deposit Materials shall include all such devices, programming, or documentation. The foregoing reference to such "development environment" is intended to apply to any programs, including compilers, "workbenches," tools, and higher-level (or "proprietary") languages, used by Depositor for the development, maintenance and implementation of the Source Code.

1.5 Deposit Updates. Unless otherwise provided by the License Agreement, Depositor shall update the Deposit Materials within sixty (60) days of each release of a new version, release, addition, modification or update of the licensed software, which is subject to the License Agreement; provided that Depositor shall not be required to make updates more often than once every four (4) months, nor less frequently than once per year. Such updates will be added to the existing deposit. All deposit updates shall be listed on a new Exhibit A and Depositor shall sign the new Exhibit A. Each Exhibit A will be held and maintained separately within the escrow account. An independent record will be created which will document the activity for each Exhibit A. The processing of all deposit updates shall be in accordance with Sections 1.2 and 1.3 above. All references in this Agreement to the Deposit Materials shall include the initial Deposit Materials and any updates.

For purposes of this Agreement, Depositor may accomplish such updates by having the new version of the product added to the existing deposit or, alternatively and upon written instruction to Custodian and Preferred Beneficiary, exchanging the new version of the product for the old version of the product within the existing deposit.

1.6 Removal of Deposit Materials. The Deposit Materials may be removed and/or exchanged only on written instructions signed by Depositor and Preferred Beneficiary, or as otherwise provided in this Agreement.

1.7 Verification. Preferred Beneficiary shall have the right, at Preferred Beneficiary's expense, to cause a verification of any Deposit Materials once within the first 90 days after execution of this Agreement by Preferred Beneficiary, and thereafter twice in any 12-month period. Preferred Beneficiary shall notify Depositor and Custodian of Preferred Beneficiary's request for verification. Depositor shall have the right to be present at the verification. A verification determines, in different levels of detail, the accuracy, completeness, sufficiency and quality of the Deposit Materials as well as to confirm that it compiles to the pertinent object code of the licensed software. If verification is elected after the Deposit Materials have been delivered to Custodian, then Custodian, or at Preferred Beneficiary's election, an independent person or company selected by Preferred Beneficiary who is reasonably acceptable to Depositor will perform the verification. The Preferred Beneficiary shall be responsible for all costs of the verification, including, without limitation, Custodian's fees associated with the verification, the costs incurred by Depositor relating to such verification (including, without limitation, travel and living expenses for Depositor personnel required to assist with the verification and fees for the services of such personnel, at Depositor's standard daily rates, as applicable).

ARTICLE 2 -- **CONFIDENTIALITY AND RECORD KEEPING**

2.1 Confidentiality. Custodian shall have the obligation to reasonably protect the confidentiality of the Deposit Materials by maintaining the Deposit Materials in a secure, environmentally safe, locked facility which is accessible only to authorized representatives of Custodian. Except as provided in this Agreement or any subsequent agreement between the Parties, Custodian shall not disclose, transfer, make available to any party, or use the Deposit Materials. Custodian shall not disclose the terms of this Agreement to any third party. If Custodian receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Materials, Custodian will immediately notify the parties to this Agreement of same in writing, unless prohibited by law. It shall be the responsibility of Depositor and/or Preferred Beneficiary to challenge any such order; provided, however, that Custodian does not waive its rights to present its position with respect to any such order. Custodian will not be required to disobey any order from a court or other judicial tribunal, including, but not limited to, notices delivered pursuant to Section 7.6 below. Custodian will not be required to disobey any order from a court or other judicial tribunal.

2.2 Status Reports. Custodian shall provide to Depositor and Preferred Beneficiary access to the Custodian's real-time, on-line portal to view data and documentation relative to this Agreement. Upon request, Custodian will provide ad hoc status reports to Depositor and Preferred Beneficiary.

2.3 Audit Rights. During the term of this Agreement, Depositor and Preferred Beneficiary shall each have the right to inspect the written records of Custodian pertaining to this Agreement. Any such inspection shall occur during normal business hours and following reasonable prior notice.

ARTICLE 3 -- **RIGHT TO MAKE COPIES**

Custodian may make copies of the Deposit Materials as necessary to meet its obligations under this Agreement, while retaining a copy to carry out its obligations for other licensees who may benefit from the same arrangement. Custodian shall include in any copies all copyright, non-disclosure and other proprietary notices and titles contained on the Deposit Materials. With all Deposit Materials submitted to Custodian, Depositor shall provide any and all instructions as may be necessary to duplicate the Deposit Materials, including, without limitation, instructions as to necessary hardware or software. In all other respects, Custodian shall not make copies of the Deposit Materials except to fulfill an order of a court of competent jurisdiction (see Section 2.1).

If for any reason Custodian should make any copy of the Deposit Materials, Custodian shall promptly give written notice to Depositor of such action and shall explain the reason for such copying in the notice.

ARTICLE 4 -- **RELEASE OF DEPOSIT**

4.1 Release Conditions. As used in this Agreement, “Release Condition” shall mean the occurrence and continuance of any of the following:

a. Entry of an order for relief regarding Depositor under Title 11 (bankruptcy) of the United States Code, the making by Depositor of a general assignment for the benefit of its creditors, the appointment of a general receiver or trustee in bankruptcy of Depositor's business or property, or the commencement of similar proceedings under the bankruptcy, insolvency, liquidation or reorganization laws of any state or any other country or province (except that were entry of an order, appointment of a receiver or trustee in bankruptcy, or commencement of bankruptcy or insolvency proceedings is effected on an involuntary basis, then Depositor shall have 60 days to have such case or proceeding dismissed);

b. Depositor's failure to continue to do business in the ordinary course;

c. Any decision by Depositor to withdraw maintenance services in support of the Depositor software licensed by Depositor to Preferred Beneficiary under the License Agreement;

d. The occurrence of a breach as defined in the License Agreement;

e. The occurrence of any condition (whether or not qualifying as a breach) having a critical impact on necessary business functions (such as a continuing loss of service or data), which Depositor cannot or will not assure Preferred Beneficiary will be corrected so to restore necessary business functions using all reasonable means, and the release of the Deposit Materials is reasonably believed to enable Preferred Beneficiary to remedy such condition critically impacting Preferred Beneficiary's use of the licensed software to meet necessary business functions; and, for purposes of this Agreement, if a Release Condition is claimed by Preferred Beneficiary to exist on this basis, then, notwithstanding Sections 4.2 and 4.3 hereof, Custodian will, without delay, release the Deposit Materials to Preferred Beneficiary immediately upon Custodian's receipt of written notice of such Release Condition in which Preferred Beneficiary shall explain why it believes the Deposit Materials will enable Preferred Beneficiary to resolve such critical impact condition and why an immediate release is required, but Preferred Beneficiary shall commit to surrender the Deposit Materials to Custodian or Depositor promptly after the correction has occurred to restore necessary business functions.]

4.2 Filing For Release. If Preferred Beneficiary believes in good faith that a Release Condition has occurred and is continuing, then Preferred Beneficiary, at any time, may provide to Custodian written notice of the occurrence of the Release Condition and a request for the release of the Deposit Materials. Within five (5) business days of receipt of a written notice, Custodian shall provide a copy of the notice to Depositor. Custodian will promptly notify the Parties unless Custodian acknowledges or discovers independently, or through the Parties, its need for additional documentation or information in order to comply with this Section. Such need for additional documentation or information may extend the time period for Custodian's performance under this section.

4.3 Contrary Instructions. From the date Custodian mails the notice by overnight express mail requesting release of the Deposit Materials, Depositor shall have ten (10) business days to deliver to Custodian contrary instructions (“Contrary Instructions”). Contrary Instructions shall mean the written representation by Depositor that a Release Condition has not occurred or has been cured. Upon receipt of Contrary Instructions, Custodian shall send a copy of Contrary Instructions to Preferred Beneficiary by overnight commercial express mail. Additionally, Custodian shall notify both Depositor and Preferred Beneficiary that there is a dispute to be resolved pursuant to Section 7.4 of this Agreement. Subject to Section 5.2 and 4.1(e) of this Agreement, Custodian will continue to store the Deposit

Materials without release pending (a) joint instructions from Depositor and Preferred Beneficiary; or (b) dispute resolution pursuant to Section 7.4; or (c) an order from a court of competent jurisdiction.

4.4 Release of Deposit. If Custodian does not receive Contrary Instructions from the Depositor, or if the Preferred Beneficiaries request to release is based on 4.1(e), Custodian is authorized to release the Deposit Materials to the Preferred Beneficiary. However, Custodian is entitled to receive any fees due Custodian before making the release. This Agreement will terminate upon the release of the Deposit Materials held by Custodian.

4.5 Right to Use Following Release. Unless otherwise provided in the License Agreement, upon release of the Deposit Materials in accordance with this Article 4, Preferred Beneficiary shall have the right to use the Deposit Materials for the sole purpose of continuing the benefits afforded to Preferred Beneficiary by the License Agreement. Preferred Beneficiary shall be obligated to maintain the confidentiality of the released Deposit Materials.

ARTICLE 5 -- **TERM AND TERMINATION**

5.1 Term of Agreement. The initial term of this Agreement is for a period of one year. Thereafter, this Agreement shall automatically renew from year-to-year unless (a) Depositor and Preferred Beneficiary jointly instruct Custodian in writing that the Agreement is terminated; (b) Custodian instructs Depositor and Preferred Beneficiary in writing ninety (90) days after its renewal date, that the Agreement is terminated for nonpayment in accordance with Section 5.2; or (c) Custodian reserves the right to terminate this Agreement, for any reason, other than for nonpayment, by providing Depositor and Preferred Beneficiary sixty (60) days written notice of its intent to terminate this Agreement. If the Deposit Materials are subject to another escrow agreement with Custodian, Custodian reserves the right, after the initial one year term, to adjust the anniversary date of this Agreement to match the then prevailing anniversary date of such other escrow arrangements.

5.2 Termination for Nonpayment. In the event of the nonpayment of fees owed to Custodian, Custodian shall provide written notice of delinquency to all parties to this Agreement. Any party to this Agreement shall have the right to make the payment to Custodian to cure the default. If the past due payment is not received in full by Custodian within one (1) month of the date of such notice, then Custodian shall have the right to terminate this Agreement at any time thereafter by sending written notice of termination to all parties. Custodian shall have no obligation to take any action under this Agreement so long as any payment due to Custodian remains unpaid.

5.3 Disposition of Deposit Materials Upon Termination. Subject to the foregoing termination provisions, and upon termination of this Agreement, Custodian shall destroy, return to Depositor, or otherwise deliver the Deposit Materials in accordance with Depositor's instructions. If there are no instructions, Custodian may, at its sole discretion, destroy the Deposit Materials or return them to Depositor. Custodian shall have no obligation to destroy or return the Deposit Materials if the Deposit Materials are subject to another escrow agreement with Custodian or have been totally released to the Preferred Beneficiary in accordance with Section 4.4.

5.4 Survival of Terms Following Termination. Upon termination of this Agreement, the following provisions of this Agreement shall survive:

a. Depositor's Representations (Section 1.4);

b. The obligations of confidentiality with respect to the Deposit Materials;

c. The obligation to pay Custodian any fees and expenses due;

d. The provisions of Article 7;

e. Section 4.5 to the extent applicable; and

f. Any provisions in this Agreement which specifically state they survive the termination of this Agreement.

ARTICLE 6 -- **CUSTODIAN'S FEES**

6.1 Fee Schedule. Custodian is entitled to be paid its agreed fees and expenses applicable to the services provided by Depositor. Custodian shall notify Depositor of Custodian's fees at least sixty (60) days prior to any increase in fees. For any service not listed on Custodian's standard fee schedule, Custodian will provide a quote prior to rendering the service, if requested.

6.2 Payment Terms. Custodian shall not be required to perform any service, including release of any Deposit Materials under Article 4, unless the payment for such service and any outstanding balances owed to Custodian are paid in full. Fees are due upon receipt of a signed contract or receipt of the Deposit Materials whichever is earliest. If invoiced fees are not paid, Custodian may terminate this Agreement in accordance with Section 5.2.

ARTICLE 7 -- **LIABILITY AND DISPUTES**

7.1 Right to Rely on Instructions. Custodian may act in reliance upon any instruction, instrument, or signature reasonably believed by Custodian to be genuine. Custodian may assume that any employee of a party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Custodian will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document. Custodian shall not be responsible for failure to act as a result of causes beyond the reasonable control of Custodian.

7.2 Indemnification. Depositor agrees to indemnify, defend and hold harmless Custodian from any and all claims, actions, damages, arbitration fees and expenses, costs, reasonable attorney's fees and other liabilities (“Liabilities”) incurred by Custodian directly resulting from this escrow arrangement, except where it is adjudged that Custodian acted with gross negligence or willful misconduct.

7.3 Limitation of Liability and Waiver of Consequential Damages.

(a) Notwithstanding anything else herein, all liability, if any, whether arising in contract, tort (including negligence) or otherwise, of Custodian under this Agreement shall be limited to the amount equal to ten times the then annual fees owed or paid to Custodian under this Agreement. If claim or loss is made in relation to a specific deposit or deposits, such liability shall be limited to the fees related specifically to such deposits. This limit shall not apply for: (I) any claims of infringement of any patent, copyright, trademark or other proprietary right; (II) liability for death or bodily injury; (III) damage to tangible property (excluding the Deposit Material); (IV) theft; or (V) proven gross negligence or willful misconduct.

(b) In no event will Custodian be liable for any incidental, indirect, special, exemplary, punitive or consequential damages, including, but not limited to, damages (including loss of data, revenue, and/or profits) costs or expenses (including legal fees and expenses), whether arising in contract, tort (including negligence) or otherwise even if the possibility thereof may be known in advance to one or more parties and whether foreseeable or unforeseeable, that may arise out of or in connection with this Agreement.

7.5 Controlling Law. This Agreement is to be governed and construed in accordance with the laws of the State of Texas, without regard to its conflict of law provisions.

7.6 Notice of Requested Order. If any party intends to obtain an order from the arbitrator or any court of competent jurisdiction, which may direct Custodian to take, or refrain from taking any action, that party shall:

a. Give notice to Custodian at least five (5) business days prior to the hearing; and

b. Include in any such order that, as a precondition to Custodian's obligation, Custodian be paid in full for any past due fees and be paid for the reasonable value of the services to be rendered pursuant to such order.

ARTICLE 8 -- **GENERAL PROVISIONS**

8.1 Entire Agreement. This Agreement, which includes Exhibits described herein, embodies the entire understanding among the parties with respect to its subject matter and supersedes all previous communications, representations or understandings, either oral or written. Custodian is not a party to the License Agreement between Depositor and Preferred Beneficiary and has no knowledge of any of the terms or provisions of any such License Agreement. Custodian's only obligations to Depositor or Preferred Beneficiary are as set forth in this Agreement. No amendment or modification of this Agreement shall be valid or binding unless signed by all the parties hereto, except that Exhibit A need not be signed by Preferred Beneficiary and Exhibit B need not be signed.

8.2 Notices. All notices, invoices, payments, deposits and other documents and communications shall be given to the parties at the addresses specified in the attached Exhibit B. It shall be the responsibility of the parties to notify each other as provided in this Section in the event of a change of address. The parties shall have the right to rely on the last known address of the other parties. Any correctly addressed notice or last known address of the other parties that is relied on herein that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified as provided herein shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities by registered mail, or through messenger or commercial express delivery services. Unless otherwise provided in this Agreement, all non-critical documents (such as invoices) and non-critical communications may be delivered by First Class mail.

8.3 Severability. In the event any provision of this Agreement is found to be invalid, voidable or unenforceable, the parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.

8.4 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties. However, Custodian shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor or Preferred Beneficiary unless Custodian receives clear, authoritative and conclusive written evidence of the change of parties.

8.5 Waiver. Any term of this Agreement may be waived by the party entitled to the benefits thereof, provided that any such waiver must be in writing and signed by the party against whom the enforcement of the waiver is sought. No waiver of any condition, or breach of any provision of this Agreement, in any one or more instances, shall be deemed to be a further or continuing waiver of such condition or breach. Delay or failure to exercise any right or remedy shall not be deemed the waiver of that right or remedy.

8.6 Regulations. Depositor and Preferred Beneficiary are responsible for and warrant compliance with all applicable laws, rules and regulations, including but not limited to customs laws, import, export, and re-export laws and government regulations of any country from or to which the Deposit Materials may be delivered in accordance with the provisions of this Agreement.

8.7 Attorney's Fees. Each party shall be responsible for its own attorney fees to enforce this agreement.

8.8 No Third Party Rights. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement unless otherwise agreed to by all the parties hereto.

8.9 Authority to Sign. Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement.

8.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

_____	_____
Depositor	Preferred Beneficiary
By:	By:
_____	_____
Name:	Name:
_____	_____
Title:	Title:
_____	_____
Date:	Date:
_____	_____

Custodian

By: _____

Name: _____

Title: _____

Date: _____

3 - EXHIBIT A

DESCRIPTION OF DEPOSIT MATERIALS

Depositor Company Name _____

Account Number _____

Product Name _____

DEPOSIT MATERIAL DESCRIPTION:

Quantity	Media Type & Size	Label Description of Each Separate Item
_____	Disk 3.5” or _____	
_____	DAT tape _____ mm	
_____	CD-ROM	
_____	Data cartridge tape _____	
_____	TK 70 or _____ tape	
_____	Magnetic tape _____	
_____	Documentation	
_____	Other _____	

PRODUCT DESCRIPTION:

Environment _____

DEPOSIT MATERIAL INFORMATION:

Is the media or are any of the files encrypted? If yes, please include any passwords and the decryption tools.

Encryption tool name_____ Version _____

Hardware required_____

Software required_____

Other required information_____

I certify for **Depositor** that the above described **Custodian** has accepted the above.	

Deposit Materials have been transmitted to Custodian: _____	
Materials	*(any exceptions are noted above)*:

Signature _____
Print Name _____
Date _____

Signature _____
Print Name _____
Date Accepted
_____
Exhibit A#
_____

3 EXHIBIT B

DESIGNATED CONTACT

Account Number_____	
Notices, deposit material returns and communications to <u>Depositor</u> should be addressed:	**Notices and communications to <u>Preferred Beneficiary</u> should be addressed to:**
Company Name: _____	Company Name:
Address: _____	Address:
Designated Contact: _____	Designated Contact:
Telephone: _____	Telephone
Facsimile: _____	Facsimile:
E-mail: _____	E-mail:
Verification Contact:	Verification Contact:
Telephone/E-mail:	

Fees for this agreement will be paid by	
<u>Depositor</u>.	
Invoices to <u>Depositor</u> should be addressed to:	
Company Name: _____	Company Name:
Address: Attn:	
_____	Address: _____
_____	_____
_____	_____
Billing Contact: _____	Billing Contact: _____
Telephone: _____	Telephone: _____
Facsimile: _____	Facsimile: _____
E-mail: _____	E-mail: _____
P.O.# _____	P.O.#: _____

Requests from Depositor or Preferred Beneficiary to change the designated contact should be given in writing by the designated contact or an authorized employee of Depositor or Preferred Beneficiary.

Agreements, Deposit Materials and notices to Custodian should be addressed to:	***All invoice fee remittances to Custodian should be addressed to:***
Custodian	Custodian
_____	_____
_____	_____
Telephone:	
Facsimile:	Date: _____
E-mail:	

RFCSP EXHIBIT 4

INTERLOCAL PARTICIPATION

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1. INTERLOCAL PARTICIPATION

a. The City may, from time to time, enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance the City's purchasing power. At the City's sole discretion and option, City may inform other Entities that they may acquire items listed in this Request for Offer (hereafter "RFO"). Such acquisition(s) shall be at the prices stated herein, and shall be subject to vendor's acceptance. Entities desiring to acquire items listed in this RFO shall be listed on a rider attached hereto, if known at the time of issuance of the RFO. City may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this contract. VENDOR shall sign and return any subsequently issued riders within ten calendar days of receipt.

b. In no event shall City be considered a dealer, remarketer, agent or other representative of Vendor or Entity. Further, City shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

c. Entity purchase orders shall be submitted to Vendor by the Entity.

d. Vendor authorizes City's use of Vendor's name, trademarks and Vendor provided materials in City's presentations and promotions regarding the availability of use of this contract. The City makes no representation or guarantee as to any minimum amount being purchased by City or Entities, or whether Entity will purchase utilizing City's contract.

CITY WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY OBLIGATIONS, INCLUDING, BUT NOT LIMITED TO, PAYMENT, AND FOR ANY ITEM ORDERED BY AN ENTITY OTHER THAN CITY.

RFCSP ATTACHMENT A

PROPOSAL

Reserved for submission of Proposal based on the Current Business Processes & Business Requirements Document of this RFCSP as EXHIBIT 1, Attachment A-1

Reserved for submission of Proposal based on the Vendor Requirement Evaluation Feedback of this RFCSP, Attachment A-2, ***Document posted separatel.***

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RFCSP ATTACHMENT B

RESPONDENT QUESTIONNAIRE

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RESPONDENT QUESTIONNAIRE

PART A - GENERAL INFORMATION

1. **Respondent Information:** Provide the following information regarding the Respondent.
   (NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

   Respondent Name: _____
   (NOTE: Give exact legal name as it will appear on the contract, if awarded.)

   Principal Address:_____

   City:_____State:_____Zip Code:_____

   Telephone No._____ Fax No: _____

   Social Security Number or Federal Employer Identification Number: _____

   Texas Comptroller's Taxpayer Number, if applicable: _____
   (NOTE: This 11-digit number is sometimes referred to as the Comptroller's TIN or TID.)

   Business Structure: Check the box that indicates the business structure of the Respondent.

   ☐ Individual or Sole Proprietorship If checked, list Assumed Name, if any: _____
   ☐ Partnership
   ☐ Corporation If checked, check one: ☐ For-Profit ☐ Nonprofit
   Also, check one: ☐ Domestic ☐ Foreign
   ☐ Other If checked, list business structure: _____

   Printed Name of Contract Signatory: _____
   (NOTE: This RFCSP solicits proposals to provide services under a contract which has been identified as "High Profile". Therefore, Respondent must provide the name of person that will sign the contract for the Respondent, if awarded.)

2. **Contact Information:** List the one person who the City may contact concerning your proposal or setting dates for meetings.

   Name:_____

   Address: _____

   City:_____State:_____Zip Code:_____

   Telephone No._____ Fax No: _____

   Email: _____

3. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

   Yes ☐ No ☐

4. Is Respondent authorized and/or licensed to do business in Texas?

   Yes ☐ No ☐ If "Yes", list authorizations/licenses.

   _____

   _____

5. Where is the Respondent's corporate headquarters located? _____

6. **Local Operation:** Does the Respondent have an office located in San Antonio, Texas?

   Yes ☐ No ☐ If "Yes", respond to a and b below:

   a. How long has the Respondent conducted business from its San Antonio office?

      Years _____ Months_____

   b. State the number of full-time employees at the San Antonio office. _____

7. **County Operation:** If the Respondent does not have a San Antonio office, does the Respondent have an office located in Bexar County, Texas?

   Yes ☐ No ☐ If "Yes", respond to a and b below:

   a. How long has the Respondent conducted business from its Bexar County office?

      Years _____ Months_____

   b. State the number of full-time employees at the Bexar County office. _____

8. **Debarment/Suspension Information:** Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?

   Yes ☐ No ☐ If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

   _____

   _____

9. **Surety Information:** Has the Respondent ever had a bond or surety canceled or forfeited?

   Yes ☐ No ☐ If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

   _____

   _____

10. **Bankruptcy Information:** Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

Yes ☐ No ☐ If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

_____

_____

11. Provide any other names under which Respondent has operated within the last 10 years.

_____

_____

PART B - REFERENCES - Provide three (3) references. The references must be for projects Respondent has listed in response to Question #1 in Part C of this Respondent Questionnaire.

Reference No. 1:

Firm/Company Name:_____

Contact Name: _____ Title: _____

Address: _____

City:_____State:_____Zip Code:_____

Telephone No. _____Fax No: _____

Email: _____

Reference No. 2:

Firm/Company Name:_____

Contact Name: _____ Title: _____

Address: _____

City:_____State:_____Zip Code:_____

Telephone No. _____Fax No: _____

Email: _____

Reference No. 3:

Firm/Company Name:_____

Contact Name: _____ Title: _____

Address: _____

City:_____State:_____Zip Code:_____

Telephone No. _____Fax No: _____

Email: _____

PART C - EXPERIENCE, BACKGROUND, QUALIFICATIONS - Prepare and submit narrative responses to address the following items. If Respondent is proposing as a team or joint venture, provide the same information for each member of the team or joint venture.

1. Describe Respondent's experience relevant to the Scope of Services requested by this RFCSP. List and describe three relevant projects of similar size and scope performed over the past four years. Identify associated results or impacts of the project/work performed.

2. Indicate the number of years Respondent has been in the business of providing an Enterprise Project Management Portal. Indicate if this is the Respondent's primary line of business. If not, state the Respondent's primary line of business.

3. List all Enterprise Enterprise Project Management Portal projects that the Respondent has completed in the last four years.

4. List all similar projects that Respondent has in progress as of the proposal due date. For each project listed, give the target date of completion, and the contact name, phone number, and email address for the project manager.

5. Describe Respondent's specific experience with public entities clients, especially large municipalities or authorities. If Respondent has provided services for the City in the past, identify the name of the project and the department for which Respondent provided those services.

6. If Respondent is proposing as a team or joint venture or has included sub-contractors, describe the rationale for selecting the team and the extent to which the team, joint ventures and/or sub-contractors have worked together in the past.

7. Provide an organizational chart showing how the Respondent proposes to staff the project. For each position reflected on the organizational chart:

   - identify the number and professional qualifications (to include licenses, certifications, associations)
   - identify relevant experience on projects of similar size and scope
   - state the primary work assignment and the percentage of time to be devoted to the project.

8. Additional Information. Identify any other relevant information about the Respondent's qualifications.

RFCSP ATTACHMENT C

DISCRETIONARY CONTRACTS DISCLOSURE FORM

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City of San Antonio
Discretionary Contracts Disclosure

Discretionary Contracts Disclosure Form is required for all respondent organizations and may be downloaded at https://www.sanantonio.gov/eforms/atty/DiscretionaryContractsDisclosure.pdf.

Instructions for completing the Discretionary Contracts Disclosure form are listed below:

1. Download form and complete all fields. Note: All fields must be completed prior to submitting the form.

2. Click on the "Print" button and place the copy in proposal response as indicated in the Proposal Checklist.

RFCSP ATTACHMENT D

LITIGATION DISCLOSURE FORM

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LITIGATION DISCLOSURE

Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

   Yes No

2. Have you or any member of your Firm or Team to be assigned to this engagement been terminated (for cause or otherwise) from any work being performed for the City of San Antonio or any other Federal, State or Local Government, or Private Entity?

   Yes No

3. Have you or any member of your Firm or Team to be assigned to this engagement been involved in any claim or litigation with the City of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

   Yes No

If you have answered "Yes" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

RFCSP ATTACHMENT E

SMALL BUSINESS ECONOMIC DEVLEOPMENT ADVOCACY PROGRAM POLICY AND FORM

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SMALL BUSINESS PROGRAM

1. **Small Business Participation**
   Pursuant to Ordinance No. 2007-04-12-0396, it is the policy of the City of San Antonio to involve Small, Minority, Women and African-American Owned Business Enterprises (S/M/W/AABE) to the greatest extent feasible in the City's discretionary contracts. The intent and purpose of the policy is to ensure that S/M/W/AABE firms have the opportunity to compete for City contracts without discrimination on the basis of race, color, religion, national origin, age, sex or handicap. To accomplish the objectives of the Small Business policy, the City has established specific goals for local S/M/W/AABE participation in this contract.

2. **DEFINITIONS** related to the Small Business Program Provisions:

   a. **Small Business Program:** the Small Business Economic Development Advocacy ("SBEDA") Program governed by this ordinance and managed by the SMALL BUSINESS Program Office.

   b. **Small Business Enterprises (SBE):** a corporation, partnership, sole proprietorship or other legal entity, for the purpose of making a profit, which is independently owned and operated and which meets the U.S. Small Business Administration (SBA) size standard for a small business. All firms meeting these thresholds will be considered an SBE.

   c. **Local Business Enterprise (LBE):** a corporation, partnership, sole proprietorship, or other legal entity which is headquartered within Bexar County for at least one year. For a branch office of a non-headquartered business to qualify as an LBE, the branch office must be located in Bexar County for at least one-year and employ a minimum of ten (10) residents of Bexar County for use at the local branch office.

   d. **Minority Business Enterprise (MBE):** a sole proprietorship, partnership, or corporation owned, operated, and controlled by a minority group member(s) who has at least 51% ownership. The minority group member(s) must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as an MBE, the enterprise shall be headquartered in Bexar County or the San Antonio Metropolitan Statistical Area (the SAMSA) for any length of time, or shall be doing business in a locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the MBES's category of contracting for at least one year.

   e. **Woman Business Enterprise (WBE):** a sole proprietorship, partnership, or corporation owned, operated and controlled by women who have at least 51% ownership. The woman or women must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as a WBE, the enterprise shall be headquartered in Bexar County or the SAMSA for any length of time or shall be doing business in a locality or localities from which the City regularly solicits or receives bids on or proposals for, City contracts within the WBE's category of contracting for at least one year.

   f. **African-American Business Enterprise (AABE):** a sole proprietorship, partnership, or corporation owned, operated and controlled by an African-American group member(s) who has at least 51% ownership. The African American Group member(s) must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as an AABE, the enterprise shall be headquartered in Bexar County or the SAMSA for any length of time or shall be doing business in a

locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the AABE's category of contracting for at least on year.

3. **Goals for Small Business Participation**

The goals for the utilization and participation of SBE-MBE-WBE-AABE businesses on this contract are as follows:

MBE	**31%**
WBE	**10%**
AABE	**2.2%**
SBE	**50%**

Please note that a small business could be classified in multiple categories and thus their utilization could in theory be counted in each category of goals. For example, **Prime Contractor X** submits a proposal, which specifies that they intend to subcontract with Subcontractor A for 10% of the contract. Subcontractor A is certified by the City as an SBE and MBE (a male-owned Hispanic Business owner can be certified as an SBE and MBE). **Prime Contractor X** also intends to subcontract with Subcontractor B for 13% of the contract. Subcontractor B is certified by the City as SBE, MBE and a WBE (a female-owned Hispanic Business owner can be certified as SBE, MBE and WBE). In addition**, Prime Contractor X** also intends to subcontract 10% of the contract to Subcontractor C—a City certified SBE, MBE and AABE (a male-owned African-American business owner can be certified as both a MBE and as a AABE Business). **Prime Contractor X** is also classified as a local SBE. **Prime Contractor X's** compliance with the Small Business goals under this scenario would be as follows:

	City's Small Business Goals	Prime Contractor X's Compliance
MBE	31%	33%
WBE	10%	13%
AABE	2.2%	10%
SBE	50%	100%

Under this scenario, the contractor would be in full compliance with the Small Business policy.

Another example regarding compliance with the policy is as follows: **Prime Contractor Y** submits a proposal, which specifies that they intend to partner through a joint-venture agreement with Company D. Company D is certified by the City as both an SBE and MBE (a male-owned Hispanic Business—certified as an SBE and MBE). As part of their joint-venture agreement, Company D will perform on 32.5% of the contract. **Prime Contractor Y** also intends to subcontract 13% of the contract with Subcontractor F. Subcontractor F is a City certified SBE/MBE/WBE and AABE business. **Prime Contractor Y** is also classified as a local SBE.

Prime Contractor Y compliance with the Small Business goals would be as follows:

	City's Small Business Goals	Prime Contractor Y's Compliance
MBE	31%	45.5%
WBE	10%	13%
AABE	2.2%	13%
SBE	50%	100%

Under this scenario, the contractor would be in full compliance with the Small Business policy.

4. <u>Good Faith Effort Required</u>

Proposals shall include a Good Faith Effort Plan (GFEP—ATTACHED). The GFEP shall include specific documentation to utilize local, small, MBE-WBE-AABE businesses in a percentage, which equals or exceeds the above goals. **Any proposal that does not include the GFEP form shall be declared non-responsive, and excluded from consideration.**

5. <u>SBE-MBE-WBE-AABE Certification Required</u>

Only companies certified as SBE-MBE, WBE, or AABE through the South Central Texas Regional Certification Agency (SCTRCA), or as approved by the City of San Antonio Director of International and Economic Development, can be applied towards the contracting goals. Proof of certification must be submitted.

6. <u>Small Business Program Information</u>

Interested contractors/proposers are encouraged to contact the Small Business Office for information regarding the City's Small Business Program Policy in accordance with the City's Communication Policy outlined in the solicitation document. Please call (210) 207-3900 or FAX: (210) 207-8151.

GOOD FAITH EFFORT PLAN

(Page 1 of 4)

NAME OF PROJECT: _____

BIDDER/PROPOSER INFORMATION:

Name of Bidder/Proposer: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail Address:_____

Is your firm certified? ____ Yes _____ No (If yes, please submit Certification Certificate.)

1. List all subcontractors/suppliers that will be used for this contract. (Indicate all MBEs-WBEs-AABEs-SBEs. Use additional sheets as needed.)

NAME AND ADDRESS OF SUBCONTRACTOR'S/SUPPLIER'S COMPANY	CONTRACT AMOUNT	% LEVEL OF PARTICIPATION	MBE-WBE-AABE-SBE CERTIFICATION NUMBER

Only companies certified as an MBE, WBE, AABE or SBE by the City of San Antonio or its certifying organization can be applied toward the contracting goals. All MBE-WBE-AABE-SBE subcontractors or suppliers must submit a copy of their certification certificate through the Prime Contractor. Proof of certification must be attached to this form. If a business is not certified, please call the Small Business Program Office at (210) 207-3900 for information and details on how subcontractors and suppliers may obtain certification.

GOOD FAITH EFFORT PLAN

It is understood and agreed that, if awarded a contract by the City of San Antonio, the Contractor will not make additions, deletions, or substitutions to this certified list without consent of the Director of Economic Development and Director of the appropriate contracting department (through the submittal of the Request for Approval of Change to Original Affirmed Good Faith Effort Plan).

NOTE: If MBE-WBE-AABE-SBE contracting goals were met, skip to #9.

2. If MBE-WBE-AABE-SBE contracting goals were not achieved in a percentage that equals or exceeds the City's goals, please give explanation.

_____

_____

_____

3. List all MBE-WBE-AABE-SBE Listings or Directories utilized to solicit participation.

_____

_____

_____

4. List all contractor associations and other associations solicited for MBE-WBE-AABE-SBE referrals.

_____

_____

_____

5. Discuss all efforts aimed at utilizing MBE-WBE-AABE-SBE's.

_____

_____

_____

6. Indicate advertisement mediums used for soliciting bids from MBE-WBE-AABE-SBE's.

_____

_____

_____

GOOD FAITH EFFORT PLAN

7. List all MBE-WBE-AABE-SBE bids received but rejected. (Use additional sheets as needed.)

COMPANY NAME	MBE-WBE-AABE-SBE CERTIFICATION NUMBER	REASON FOR REJECTION

8. Please attach a copy of your company's MBE-WBE-AABE-SBE policy.

9. Name and phone number of person appointed to coordinate and administer the Good Faith Efforts of your company on this project.

_____

_____

10. This Good Faith Effort Plan is subject to the Economic Development Department's approval.

GOOD FAITH EFFORT PLAN

GOOD FAITH EFFORT PLAN AFFIRMATION

I HEREBY AFFIRM THAT THE INFORMATION PROVIDED IN THIS GOOD FAITH EFFORT PLAN IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

_____
SIGNATURE OF AUTHORIZED OFFICIAL

_____
TITLE OF OFFICIAL

_____
DATE PHONE

****
****

FOR CITY USE

Plan Reviewed By:_____

Recommendation: Approval_____ Denial_____

Action Taken: Approved_____ Denied_____

_____
DIRECTOR OF INTERNATIONAL AND ECONOMIC DEVELOPMENT

RFCSP ATTACHMENT F

PRICING SCHEDULE

Document posted separately

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RFCSP ATTACHMENT G

ADDITIONAL PROJECT DOCUMENTS

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RFCSP ATTACHMENT H

SIGNATURE PAGE

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SIGNATURE PAGE

"✓" Check box that indicates business structure of Respondent

☐ Individual or Proprietorship
☐ Partnership or Joint Venture
☐ Corporation

The undersigned certifies that (s)he is _____ (title) of the Respondent entity named below; that (s)he is designated to sign this Proposal Form (if a Corporation then by resolution with Certified Copy of resolution attached) for and on behalf of the entity named below, and that (s)he is authorized to execute same for and on behalf of and bind said entity to the terms and conditions provided for in the Proposal as required by this RFCSP, and has the requisite authority to execute an Agreement on behalf of Respondent, if awarded, and that the 11-digit Comptroller's Taxpayer Number for the entity is:

_____.
11-digit Comptroller's Taxpayer Number

_____
Respondent Organization Name (DBA also required if Individual or Proprietorship)

By: _____
Printed Name:_____
Title:_____

By: _____
(If Respondent is a Joint Venture, an authorized signature from a representative of each party is required)
Printed Name:_____
Title:_____

_____
Employer Identification Number

By signature(s) above, Respondent(s) agrees to the following:

1. If Respondent is a corporation, Respondent will be required to provide a certified copy of the resolution evidencing authority to enter into the contract, if other than an officer will be signing the contract.
2. If awarded a contract in response to this RFCSP, Respondent will be able and willing to comply with the insurance and indemnification requirements set out in RFCSP Exhibits 2 & 3.
3. If awarded a contract in response to this RFCSP, Respondent will be able and willing to comply with all representations made by Respondent in Respondent's proposal and during Proposal process.
4. Respondent has fully and truthfully submitted a Litigation Disclosure form with the understanding that failure to disclose the required information may result in disqualification of proposal from consideration.
5. Respondent agrees to fully and truthfully submit a Respondent Questionnaire and understands that failure to fully disclose requested information may result in disqualification of proposal from consideration or termination of contract, once awarded.
6. To comply with the City's Ethics Code, particularly Section 2-61 that prohibits a person or entity seeking a City contract - or any other person acting on behalf of such a person or entity - from contacting City officials or their staff prior to the time such contract is posted as a City Council agenda item.

Acknowledgement of Prohibition regarding Campaign and Officeholder Contributions

I acknowledge that this contract has been designated a "high-profile" contract. I have read and understand the provisions regarding high profile contracts that appear on the cover page of this RFCSP.

RFCSP ATTACHMENT I

PROPOSAL CHECKLIST

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PROPOSAL CHECKLIST

Use this checklist to ensure that all required documents have been included in the proposal and that they are properly tabbed and appear in the correct order.

Tab in Proposal	**Document**	**Initial to Indicate Document is Attached to Proposal**
	Table of Contents	
A-1	Proposal: Requirements Document (RFCSP Attachment A-1)	
A-2	Vendor Requirements Evaluation Feedback (RFCSP Attachment A-2)	
B	Repondent General Questionnaire (RFCSP Attachment B)	
C	*Discretionary Contracts Disclosure (RFCSP Attachment C)	
D	Litigation Disclosure (RFCSP Attachment D)	
E	* Good Faith Effort Plan (RFCSP Attachment E)	
F	Pricing Schedule (RFCSP Attachment F)	
G	Additional Project Documents (RFCSP Attachment G)	
H	*Signature Page (& Resolution, if applicable) (RFCSP Attachment H)	
I	Proof of Insurability (Letter and Copy of Current Certificate of Insurance) (RFCSP Exhibit 2)	
J	*Proposal Checklist (RFCSP Attachment I)	
K	Addendums (Submit copy with all addendum's requiring Respondent's signature.)	
	One (1) Original and Ten (10) Copies of Proposal and Two (2) electronic versions of entire bid on CD-Rom in PDF Format	

***Documents marked with an asterisk on this checklist require a signature. Be sure they are signed prior to submittal of proposal.**