

# CITY OF SAN ANTONIO

## CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DEPARTMENT



**REQUEST FOR PROPOSALS:  
STANDBY ASBESTOS AND  
INDUSTRIAL HAZARDOUS WASTE ABATEMENT**

**RFP: CIMS071812DV**

**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:

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.**

ISSUE DATE: **WEDNESDAY, JULY 18, 2012**

SUBMITTAL DEADLINE: **FRIDAY, AUGUST 17, 2012 at 10:00 A.M. Local Time**

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# REQUEST FOR PROPOSALS

## STANDBY ASBESTOS AND INDUSTRIAL HAZARDOUS WASTE ABATEMENT

### I. BACKGROUND

City of San Antonio (hereinafter referred to as “City”), Capital Improvement Management Services Department (hereinafter referred to as “CIMS”) is seeking proposals from qualified Contractors interested in providing the services as described in this Request for Proposal (hereafter referred to as “RFP”). The environmental professional (hereinafter referred to as “Contractor”) will provide asbestos and industrial hazardous waste removal, transportation and disposal for structures or facilities being demolished and/or renovated for City in coordination with CIMS and other City departments. This Contract is an agreement for environmental abatement. Although there are aspects for performance that require specialized training and certification, the activity is not itself an engineering action.

City anticipates various projects will arise under authority of a standby contract or contracts resulting from this RFP and that one or more contracts may be awarded in connection with this RFP. Firms interested in performing these services shall submit a proposal in accordance with the minimum requirements outlined in the RFP. Responses shall follow the order and sequence as set forth in Section 6, Proposal Requirements, of this document.

### II.SCOPE OF SERVICES

A. This standby contract will use Indefinite Delivery Orders (hereafter referred to as “IDO”) and Indefinite Delivery Quantities (hereafter referred to as “IDQ”) to respond to and perform environmental abatement related activities involving removing asbestos containing material (hereafter referred to as “ACM”) and industrial hazardous waste materials (such as PCB-containing ballasts, mercury-containing fluorescent lamps, etc.) from City facilities and unsafe structures scheduled for demolition. As directed, Contractor also shall remove ACM and industrial hazardous waste from City facilities scheduled for renovation. The structures’ conditions may be in varying states of degradation, with some flood, fire and/or structural damage. Contractor safely and properly shall manage, remove and dispose of all ACM and industrial-hazardous waste in a permitted disposal facility. Contractor will be required to generate, maintain and provide copies of waste manifests to CIMS Environmental Management Division (hereafter referred to as “EMD”). The services to be provided will be used on an as-needed basis.

B. The scope of work may include projects that require immediate response (24 hours after the initial survey assessment is performed) to remove asbestos containing material and industrial hazardous waste for emergency demolition projects. Most of the work orders will require Contractor to mobilize to the site as indicated by City and complete the scope of work within the proposed time specified in the approved proposal.

C. The quantities included in the Pricing Form (**Form 6** hereto) are estimates. City does not guarantee any minimum quantity of work associated with this contract. Actual payment will be based on the documented quantities and the appropriate unit prices. Any work requiring tasks with materials or services not included in the Price Proposal Form are subject to negotiation between City and Contractor.

D. City anticipates entering into a one (1) year contract with three (3) one (1) year optional extensions. Contractor is required to follow City asbestos abatement and/or industrial hazardous waste specifications, and local, State and Federal regulations when handling removing, transporting and disposing of these materials.

## **TASK ORDERS**

A. The selected Contractor verbally will be notified of the proposed scope of work as projects are identified. At such time, the selected Contractor will meet with City representatives, inspect the proposed work site and discuss the specific scope of work for each proposed task order. The selected Contractor will submit a written cost estimate proposal to City representative, based on the contract unit prices as established in the Price Proposal Form contained herein. Contractor also shall submit a timeline schedule for the projected date of completion. Only the applicable unit prices submitted on Price Proposal Form shall be considered in developing the cost estimate; unless the project requires services not included in the description of this contract. These costs are subject to negotiation between City and Contractor. If the costs of services submitted by Contractor are not specified in this document and are not agreed upon by City, City reserves the right to approve only the services established in the contract and retain a different vendor to complete the remaining tasks. City will review and approve the cost estimate prior to releasing a task order. Each line item identified on the Price Proposal Form shall be independent from the other line items. The selected Contractor only shall use those line items necessary to fulfill a particular task order. Any discrepancies in cost or scope of work shall be corrected and agreed upon in writing by City and the selected Contractor prior to releasing a task order. The selected Contractor shall not proceed with the work activities until Contractor receives written documentation approving the scope of work and the total Project cost.

B. Contractor will be required to coordinate required third-party air monitoring with City's representative Asbestos Consultant (hereafter referred to as City's "On-Call Consultant") then under contract with City. This On-Call Consultant shall provide project management and air monitoring services for all of the asbestos abatement projects conducted by Contractor.

C. Contractor will be required to submit all the required necessary documentation required by the Texas Department of State Health Services (hereafter referred to as "TDSHS") to the assigned On-call Consultant and EMD for review and approval. Contractor shall receive written approval documentation from the CIMS Environmental Project Manager prior to any work beginning.

D. Contractor shall submit the TDSHS notifications and all notice amendments to CIMS EMD prior starting to work. Any schedule changes by Contractor shall require Contractor to amend the TDSHS notification and Contractor shall send copies of the amended original to City for approval. It is mandatory that Contractor coordinate and receive approval from the CIMS Department on any and all amended abatement start dates. It is Contractor's responsibility to forward all amended original TDSHS notification copies to City's On-Call Consultant and the local TDSHS office. Upon completion of the project, Contractor is responsible for all administrative fees associated with the notification. Payment verification will be required at the completion of the Project.

E. Contractor shall be required to take all actions necessary to perform the timely removal of ACM and industrial hazardous waste from City facilities and other designated structures scheduled for renovation or demolition as tasked. Contractor shall adhere to the scope of work, cost approved and specifications set out herein. Contractor shall be responsible for submitting and adhering to the City-accepted schedule and for providing updates and/or schedule modification if the project schedule changes.

F. City utilizes the PRIMELink Program Management tool for payment application and invoicing. The awarded vendor shall be required to have an e-mail account and access to a computer with internet access through Internet Browser Explorer. The selected Contractor shall be required to obtain a PRIMELink login access ID to process task orders, invoices and submittals. City will assist the awarded vendor with accessing City's system and will provide procedures and processes on PRIMELink.

G. All Applications for Compensation shall be submitted through City's Project Management PRIMELink system. Prior to submitting a Request for Reimbursement into City's payment system, the selected Contractor shall submit a draft invoice to be approved by the EMD Environmental Project Manager.

H. The selected Contractor shall submit all payment requests, amendments, change orders and other administrative activities through PRIMELink system. City shall administer the software, provide training to the selected Contractor and make the software available at no cost to Contractor via the Internet.

I. The selected Contractor shall designate a Contractor representative to attend City's training to learn payment procedures established for City's Project Management PRIMELink system..

### **SUBMISSION OF DOCUMENTATION**

The selected Contractor shall submit the following documentation, prior to starting each Project:

- A. Copies of the 40-hrs. HAZWOPER certifications for all employees working on the given project;
- B. A Site Specific Health and Safety Plan for emergency action with current contacts, telephone numbers and procedures to follow during an emergency;
- C. Prior to starting the job, Contractor shall notify the occupants of the facility and provide work schedules.
- D. Asbestos abatement certifications for on-site Contractor/supervisor and other personnel working on the Project.
- E. Copies of certificate of accreditation and State licenses for the site supervisor reflecting an asbestos abatement Contractor supervisor. These documents also shall be made available on-site(s) during abatement activities for inspection by City and others.
- F. Within five (5) days of Notice to Proceed for each abatement project, Contractor shall:
  - 1. submit a list of Contractor's principal staff assignments, including the Supervisor and other personnel (specifically, abatement worker personnel) in attendance at the respective site(s);
  - 2. identify individuals, their duties and responsibilities; and
  - 3. list their addresses and telephone numbers.

These documents will also be available at the respective job site(s) during abatement activities for future inspection by City and others.

- G. Contractor is responsible for forwarding all original TDSHS notification copies to City's On-Call Consultant and the local TDSHS office.
- H. This documentation readily should be available to City's On-Call Consultant and the TDSHS Representative. All required submittals and postings shall be submitted to CIMS EMD, prior starting the work.
- I. Provide original waste manifests, proof of administrative fees payment and a final report documenting the activities to CIMS EMD, as required, within thirty (30) days after project is completed.

### **REQUIREMENTS FOR DEMOLITION**

Contractor shall adhere to the following special requirements or actions:

- A. Contractor shall have a qualified and authorized individual who shall be reachable by mobile telephone or e-mail during the company's non-regular work hours (evenings, weekends, holidays, etc.). This individual shall be accessible to be contacted in case of an emergency project.
- B. Contractor shall perform a site survey of a work site or structure(s) within twenty four (24) hours of the first telephone communication with City. This 24-hour period shall include weekends and official City holidays. During this site survey, Contractor's representative and City shall discuss project quantities, scope of work and work schedule for the Project.
- C. Contractor shall begin work at the site on the exact day agreed upon during the site survey. Any changes in scheduling, including a later start date or early completion of a project, shall be coordinated with and approved in writing by City.
- D. Contractor shall be available to perform emergency asbestos abatement and removal of industrial hazardous waste activities, upon request.
- E. Contractor shall have the capability to work on a minimum of three (3) structures simultaneously and complete at least fifteen (15) asbestos abatement projects a month. Examples of demolition projects are: three (3) commercial buildings of approximately 2,000 sq. feet each; three (3) single-family dwellings of approximately 1,500 sq. feet each; and three (3) multi-story structures of approximately

4,000 sq. feet each. Typically, single family dwellings are the most commonly demolished structures by City. In some instances, City will require Contractor to work on special projects, such a multi-story buildings of approximately 20,000 sq. feet.

- F. Contractor is required to properly and safely remove, manage and dispose of asbestos-containing material and industrial hazardous waste materials, according to Federal, State and local regulations and industry work practices. The wastes may consist of, but are not limited to, the following:
  - 1. thermal system insulation (hereafter referred to as "TSI"), such as pipe insulation, pipe elbows, and pipe runs;
  - 2. surfacing materials, such as walls, ceilings, flange beams or other structural members;
  - 3. miscellaneous materials, such as gypsum wallboard and joint compound, ceiling tiles, textured wall material, vinyl flooring, flooring mastic, asphalt roofing; and
  - 4. liquid and/or solid industrial hazardous waste.

## **WORK REQUIREMENTS**

- A. Contractor shall assume full responsibility and liability for compliance with all applicable federal, state and local regulations pertaining to work practices, hauling, disposal, protection of workers, visitors to the site and persons occupying areas adjacent to the site.
- B. Contractor is required to provide medical examinations and maintain medical records of personnel, as required by the applicable federal, state and local regulations, related to exposure to asbestos and industrial hazardous waste.
- C. Contractor shall provide a full-time Licensed Supervisor who shall be experienced in administration and supervision of asbestos abatement projects including work practices, protective measures for building and personnel, disposal procedures, etc. This Licensed Supervisor shall be Contractor's Representative responsible for compliance with all applicable federal, state and local regulations, particularly those relating to asbestos-containing materials.
- D. Contractor shall provide labor, materials, equipment and insurance to complete the work specified including, but not limited to, the removal, transportation and proper disposal of hazardous materials, hazardous wastes and special wastes. Work shall be performed in accordance with all federal, state and local regulations.
- E. All industrial hazardous waste, hazardous materials and special wastes shall be transported by an authorized hauler to an authorized disposal facility. Authorized haulers shall be insured, licensed and shall maintain all appropriate permits, including local permits as required by the City of San Antonio Solid Waste Management Department, and as required for the waste material that is to be hauled.
- F. The selected Contractor shall provide City proof of licenses and permits, as required, prior to transportation of hazardous materials. Contractor shall ensure that all transporting vehicles are in good working condition. All transporters shall haul impacted media directly to the authorized disposal facility and shall not spill or track impacted material in route to the authorized facility.

## **TRAINING**

All tasks required, as part of this Contract, have the potential to expose the worker to hazardous substances.

- A. All employees working on site (equipment operators, general laborers et. al) who potentially may be exposed to hazardous substances, health hazards or safety hazards, along with their supervisors and all management responsible for the site, shall abide by the specifications outlined in 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER). Contractor is responsible for reviewing subparagraph G and Z of 29 CFR 1910.120, and addressing engineering controls, work practices and personal protective equipment (PPE) for employee protection from exposure to hazardous substances and safety and health hazards.

- B. The personal protective equipment to be worn by Contractor employees and representatives shall be identified and described in Contractor's health and safety plan and Contractor shall abide by and enforce 29 CFR 1910.120 HAZWOPER. It is Contractor's responsibility to assess the work environment by providing personnel monitoring and determining if additional PPE is necessary, once the scope of work is in progress. A Health and Safety Plan shall be prepared by Contractor at the beginning of each project and shall be approved in writing by City's representative before Contractor begins any field activities.
- C. Contractor shall ensure that all workers have completed the Hazardous Waste Operations and Emergency Response (HAZWOPER) training, as required by 29 CFR 1910.120. At a minimum, Contractor shall ensure that all workers who handle impacted media shall receive forty (40) hours of HAZWOPER Training. Additionally, Contractor Supervisor also shall have an additional eight (8) hours of Supervisor HAZWOPER Training. Contractor shall submit copies of certificates for workers involved in the project as part of Contractor's Health and Safety Plan. No worker, without the proper training, shall be allowed to participate in any project under this contract.

### **REMOVAL, TRANSPORTATION AND DISPOSAL OF INDUSTRIAL HAZARDOUS WASTE**

- A. Contractor, in some instances, shall be required, prior to the demolition or renovation of a structure, to remove, transport and dispose of industrial hazardous waste. These materials include, but are not limited to, fluorescent light bulbs, mercury-vapor lights, PCB ballast, lead-acid batteries, high-intensity discharge lights and solid/liquid Class 2 or 3 non-hazardous waste.
- B. The selected Contractor shall provide proper containers or drums for Class 2 or Class 3 non-hazardous solid waste or other waste, as defined and required by TCEQ ("Guidelines for the Classification and Coding of Industrial and Hazardous Waste," 30 TAC Sections 335.501-.521, Subchapter R)
- C. Contractor might be responsible for the placement of the solid waste into drums. In some instances, the solid waste already will have been placed in the drums, requiring only transportation and disposal by Contractor. City's On-Call Consultant shall assist Contractor in preparing the waste characterization and obtaining the waste approvals. Contractor shall dispose of all waste at an authorized disposal facility, in accordance with all applicable local, state and federal regulations. City's representative will sign all manifests as the generator.
- D. Line items 3A through 34, included in **Form 6 - Price Proposal Form** hereto, shall include costs for removal, transportation and disposal.

### **ADDITIONAL ENVIRONMENTAL REQUIREMENTS**

- A. Contractor shall exhibit professionalism while performing all tasks under Contract and while performing all work, in accordance with accepted industry standards and practices. Contractor might be required to provide site safety control and security after the issuance of the written Notice to Proceed for a specific work order provided by City. As necessary, Contractor shall install temporary fencing, barricade tape or other means to control access to unauthorized persons. Costs associated with site security and safety shall be included in Contractor's specific price proposal for a given Project. Work methods and quality control measures are the responsibility of Contractor. City reserves the right to suspend work methods considered unsafe, illegal or ultimately detrimental to the Project or City.
- B. Contractor shall perform all work under this Contract and pursuant to an issued task order in accordance with all local, state and federal regulations. Contractor shall follow the Texas Commission on Environmental Quality (TCEQ) rules and regulations, when applicable. Contractor shall possess all applicable licenses, permits, insurance and training required to perform environmental work activities. The applicable laws, regulations, and policies include, but are not limited to:
- 40 CFR Part 61, Subpart M (National Emission Standards Health Protection (NESHAP) rules)
  - 25 TAC 295 Subchapter C (Texas Asbestos Protection Health (TAPHR) rules)

- 30 TAC 335 Subchapter A (Industrial Solid Waste and Municipal Hazardous Waste)
- 29 CFR 1910.1101 (General Industry Standards for Asbestos)
- 29 CFR 1910.134 (General Industry Standard for Respiratory Protection)
- 29 CFR 1926 (Construction Industry)
- 29 CFR 1910.20 (Access to Employee Exposure and Medical Records)

**Please note that the preceding Scope of Services is subject to change during the RFP solicitation period at the sole discretion of City. Changes, if any, will be made in accordance with Section VI - Amendments to the RFP below.**

### III. SCHEDULE OF EVENTS

The following tentative schedule has been prepared for this project.

Pre-Submittal Conference	August 1 2012
Deadline for Submission of Written Questions	August 6, 2012
Responses due	August 17, 2012
Anticipated City Council Consideration	September , 2012

### IV. PRE-SUBMITTAL CONFERENCE

A Pre-Submittal Conference will be held on **Wednesday, August 1, 2012 at 9:00 a.m., in the Municipal Plaza Building, 9<sup>th</sup> Floor Conference Room.** Attendance at the Pre-Submittal Conference is optional but strongly encouraged. 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 City's website at <http://epay.sanantonio.gov/RFPListings/>.

This meeting place is accessible to disabled persons. The Municipal Plaza Building is wheelchair accessible. The accessible entrance is located at 114 W. Commerce. Accessible parking spaces are located at City Hall, 100 Military Plaza. Auxiliary aids and services are available upon request. Interpreters for the Deaf shall 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 City. Only written responses shall be official and all other forms of communication with any officer, employee or agent of City shall not be binding on City.

### V. SUBMITTAL DOCUMENT REQUIREMENTS & EVALUATION CRITERIA

City will conduct a comprehensive, fair and impartial evaluation of all submittals received in response to this RFP. City may appoint a selection committee to perform the evaluation. Each submittal will be analyzed to determine overall responsiveness and qualifications under the RFP. The selection committee may select all, some or none of the Respondents. If City elects to conduct interviews, Respondents may be interviewed and re-scored based upon these same criteria, or other criteria to be determined by the selection committee.

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

1. **COVER LETTER** – Respondents shall include a one-page Cover Letter for the SOQ. The summary shall state the number of years in business, number of years in business in the local office, local office address and number of employees employed in local office.

2. **SUBMITTAL COVER / SIGNATURE PAGE (Form #1)** –Respondent shall include the completed Submittal Cover/Signature Sheet with submittal, indexed or labeled as **Tab“1”**. The Submittal Cover/Signature Sheet shall be signed by a person, or persons, authorized to bind the entity or entities submitting the response. Submittals signed by a person other than an officer of the company or partner of the firm shall be accompanied by evidence of authority. Joint ventures require signatures from all firms participating in the joint venture. Joint ventures are required to provide legal proof of the joint venture such as a joint venture agreement as an attachment to their submittal.
  
3. **SUBMITTAL CHECKLIST AND TABLE OF CONTENTS (Form #2)** – Respondent shall complete this form, which is to be used as the Table of Contents for its submittal. The checklist shall be indexed or labeled as **Tab “2”** in submittal.
  
4. **DISCRETIONARY CONTRACTS DISCLOSURE FORM (Form #3)** – Respondents should complete the form online at: <http://www.sanantonio.gov/eforms/atty/DiscretionaryContractsDisclosure.pdf>, print a copy of the completed form and submit as **Tab “3”** in its ORIGINAL SUBMITTAL ONLY. If Respondent is proposing as a team or joint venture, then each party to that team or joint venture shall complete and submit a separate form with the submittal.
  
5. **LITIGATION DISCLOSURE FORM (Form #4)** – Complete Litigation Disclosure form and additional pages for explanation, if necessary, index or label as **Tab “4”** in submittal. If Respondent is proposing as a team or joint venture, then each party to that team or joint venture shall completed and submit a separate form with the submittal.
  
6. **SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (FORM 5)**: Submit a completed and signed Subcontractor/Supplier Utilization Commitment Form indicated that your firm commits to satisfy a twenty-five (25%) Small Business Enterprise (SBE) subcontracting goal for this solicitation. During the first phase of this solicitation, absent a waiver granted by the Small Business Office (SBO), failure of a Prime Contractor to submit a completed Subcontractor/Supplier Utilization Commitment Form in its response shall render its response NON-RESPONSIVE. This form shall be indexed and labeled as **Tab “5”** in the submittal.
  
7. **CONTRACT TEMPLATE AND GENERAL CONDITIONS – (Index and label as Tab “6”)**  
  
 Respondents are to review the Contract Template and General Conditions provided as RFP Exhibit A and provide written comments and/or concerns regarding the Contract and General Conditions. If Respondents do not have any comments and/or concerns, Respondent shall indicate this in this tab. If no objections are submitted by the Respondent, City will presume that Respondent will sign the agreement as presented, if a contract is awarded.
  
8. **PROOF OF INSURABILITY – (Index and label as Tab “7”)**  
  
 Respondent shall submit a copy of their current insurance certificate.
  
9. **STATEMENT OF QUALIFICATIONS** - Narrative document that covers all items in Sections II of this RFP. Sufficient information regarding past projects and key personnel’s’ experience should be provided to indicate that the respondent’s team has met or exceeded the minimum qualifications provided in Section II of this RFP.

<b>Evaluation Criteria:</b>	<b>Maximum Points</b>
<b>A. Background, Experience &amp; Qualifications of Prime Firm key personnel, key Sub-consultants including Co-Respondents, Joint Venture Party or Partner</b>	<b>25 points</b>
<b>B. Proposed Management Plan for Asbestos &amp; Industrial Hazardous Waste Abatement</b>	<b>15 points</b>

<b>C. Team's Experience with San Antonio Region Issues &amp; past experience with City of San Antonio contracts</b>	<b>15 points</b>
<b>D. Price Proposal</b>	<b>30 points</b>
<b>E. SBEDA</b>	<b>15 points</b>

**A. Background, Experience and Qualifications of Prime Firm, Key Personnel and Key Sub-consultants including Co-Respondent, Joint Venture Party or Partner (25 Points)**

**1. Experience: (Indexed and Labeled as "Tab 8")** - City will consider the relevance of past experience for all parties proposed as a part of the team. Provide a narrative in five (5) pages or less that describes the team's qualifications. Include how the proposed team has worked together on past similar projects and include the number of years working as a team. If a Subcontractor is part of the team, please include information on how they function within the team's organization.

**2. Proposed Key Personnel/Organizational Chart (Indexed and Labeled as "Tab 9")** - Key personnel included in this section are expected to be the same personnel that will be assigned to contract if awarded. Provide a detailed organizational chart of your firm identifying key personnel who will be committed to work on the various tasks for this contract. The Proposed Key Personnel shall consist of a Licensed Environmental Contractors with a minimum of 5 five years demonstrated experience with Asbestos Abatement and Industrial Hazardous Waste removal.

Label key personnel assignments as:

- Coordination of the project and requirements with regulatory agencies and authorities (if any);
- Quality assurance/quality control (asbestos abatement/Industrial Hazardous Waste);
- Coordination for submitting applicable notifications;
- Proposed Project Manager;
- Proposed Supervisor;
- Crews used for this job; and
- Subcontractors (for any services deemed necessary to fulfill the duties of this contract).

**3. Resumes (Indexed and Labeled as "Tab 10")** – Respondent shall submit one-page resumes for all key team members. Resumes should link to project sheets and may also include additional previously completed relevant projects not highlighted in the project sheets. Resumes shall also include the license type (if applicable), number of years licensed, location of office, number of years experience in proposed role and experience with the Firm.

**4. Project Sheets (Indexed and Labeled as "Tab 11")** – Respondent's submittal shall include a minimum of ten (10) project sheets, limited to one (1) page for each project, which describe similar projects the respondent has completed within the last five years. Each project sheet should include the following:

1. Name and Description of the project;
2. Scope of the project
3. Project Manager and note whether this person will work on this contract and his/her role planned for this contract;
4. Project Supervisor and note whether this person will work on this contract and his/her role planned for this contract;
5. Budget for project

6. Project's proposed completion date and actual completion date (explain inconsistencies);

7. Names of the crew members who worked with the project. Please indicate if they are still retained by the Respondent.

8. The owner's name and the name of the representative (if different) who served as the day-to-day liaison for the project in the following format:

Name of Owner: \_\_\_\_\_

Name of Owner's representative: \_\_\_\_\_

Representative's Phone Number: \_\_\_\_\_

Representative's E-mail: \_\_\_\_\_

## **B. Proposed Management Plan for Asbestos and Industrial Hazardous Waste Abatement (15 points)**

This information should include the firm's proposed organizational structure and availability of labor resources (capacity to perform) in executing the firm's effort. The firm shall submit information in a brief narrative plan that clearly and concisely describes the organization and approach to the project to include the information below:

1. **Asbestos Abatement Management** – Shall be indexed and labeled as “**Tab 12**”. Limit response to the following items to three (3) pages:
  - Describe your firm's management approach and team organization for the provisions outlined in this RFP;
  - Describe your team's Quality Control/Quality Assurance Process, approach and capabilities to maintain quality control of the project; and
  - Describe your approach to assuring timely completion of the project, including methods for schedule recovery, if necessary. Include timing of environmental permitting is needed.
  
2. **Industrial Hazardous Waste Management** - Shall be indexed and labeled as “**Tab 13**”. Limit response to the following items to three (3) pages:
  - Describe your firm's management approach and team organization for the provisions outlined in this RFP;
  - Describe your team's Quality Control/Quality Assurance Process, approach and capabilities to maintain quality control of the project; and
  - Describe your approach to assuring timely completion of the project, including methods for schedule recovery, if necessary. Include timing of environmental permitting is needed.

Respondent is expected to examine this RFP carefully, and understand the terms and conditions for providing the services listed herein and respond completely. Failure to complete and provide any of the above-referenced documents may result in the Respondent's submittal being deemed non-responsive and, therefore, disqualified from consideration.

## **C. Team's Experience with San Antonio Region Issues and past experience with City of San Antonio contracts (15 points)**

City is interested in evaluating the firm's experience with San Antonio issues, as may be evidenced by work in the San Antonio and surrounding area during the past five (5) years. In narrative form using two (2) pages, briefly describe experience in the following areas and reference projects relating to that experience. Note: you may reference projects included in project sheets under criteria A or include other projects but no additional project sheets should be provided for this criteria. This information shall be indexed and labeled as "**Tab 14**".

1. Coordination and assistance with obtaining applicable permitting and clearances from regulatory agencies, as required
2. Experience with projects of significance and coordination (if performed) with local, State, and Federal agencies;
3. Experience with projects for other municipalities or governmental agencies in the area (Texas),

A portion of the scoring for these criteria will be based on City's Consultants' Scorecard, other documentation or experience with City projects. City will consider the history of the firm in complying with project programs, schedules, and budgets on previous **City of San Antonio** projects. **No items shall be submitted by the respondent for this criterion.** Specific items for consideration may include, but are not limited to:

- Timely completion of projects;
- Cooperative working relationship with City;
- Prompt payment of Subcontractors at all levels;
- Compliance with other contract terms;
- Compliance with City Ordinances on substitution/addition/deletion of Subcontractors;
- Provision of contracting opportunities for S/M/WBEs;
- Compliance with City standards;
- Conformance to City budget requirements.

#### **D. Price Proposal (30 points)**

Respondents interested in this RFP shall provide pricing for all items on the Price Proposal Form. Failure to provide pricing for all items listed in the Price Proposal Form may result in the submittal to be deemed non-responsive and grounds for disqualification. Respondents also shall complete and sign the Price Proposal form, as found in RFP Form 6. This information shall be indexed and labeled as "**Tab 15**".

#### **E. SBEDA – SBE Prime Contract Program (15 points)**

Certified SBE firms headquartered or having a Significant Business Presence within the San Antonio Metropolitan Statistical Area responding to this solicitation as Prime Contractors proposing at least 51% SBE participation (prime and/or Subcontractor) will receive fifteen (15) evaluation criteria percentage points.

No evaluation criteria percentage Points will be awarded to non-SBE Prime Contractors through subcontracting to certified SBE firms.

### **VI. SUBMISSION INSTRUCTIONS**

When submitting a Proposal in person, visitors to City Hall must allow time for security measures. Visitors to City Hall will be required to enter through the east side of the building. The public will pass through a metal detector and x-ray machine located in the lobby. All packages, purses and carried items will be scanned during regular business hours of 7:45 a.m. to 4:30 p.m. After the public proceeds through the metal detector, they will sign in and receive a visitor's badge. For those that might require the use of a ramp, entry is available on the south side of the building (Dolorosa side). Security will meet the visitor in the basement with a hand scanner.

Respondent shall submit a total of six (6) Qualification Statements which shall include one (1) original Qualification Statement, signed in ink, and five (5) printed copies of the submittal, as well as one (1) copy of the

entire submittal in an Adobe PDF format on a compact disk (CD) in a sealed package, clearly marked on the front of the package "RFP: STANDBY ASBESTOS AND INDUSTRIAL HAZARDOUS WASTE ABATEMENT" All submittals must be received in City Clerk's Office at **NO LATER THAN 10:00 AM FRIDAY, AUGUST 17, 2012** the address indicated below. Any submittal received after this time shall not be considered.

Mailing Address:

City Clerk's Office, Attn: Capital Improvement Management Services Department  
P.O. Box 839966  
San Antonio, Texas 78283-3966

Physical Address:

City Clerk's Office, Attn: Capital Improvement Management Services Department  
100 Military Plaza  
City Hall, 2<sup>nd</sup> Floor,  
San Antonio, Texas 78205

Submittals sent by facsimile or email will not be accepted.

Responses to the solicitation should be complete and well organized. Adherence to the maximum page criterion is critical; each page side (maximum 8 1/2" x 11") with criteria information will be counted. Respondent shall adhere to the page limitations for each section as stated herein. Pages which have project photos, charts, and graphs will be counted towards the maximum number of pages. Front and back covers, Table of Contents pages and tabbed divider pages will not be counted if they do not contain submittal information. The use of recycled paper is encouraged. Three-ring binders are **NOT** permitted. With regards to other types of binding, plastic (not metal) spiral or "comb" binding is highly recommended. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials beyond which is sufficient to present a complete and effective submission are not required. All pages shall be numbered. Margins shall be no less than 1" around the perimeter of each page. Electronic files, websites or URLs shall not be included as part of the proposal, other than the CD specified above. Each submittal shall include the sections and attachments in the sequence listed in the RFP Section V, Submittal Document Requirements & Evaluation Criteria, and each section shall be divided by tabs and indexed as indicated in this RFP. Failure to meet the above conditions may result in disqualification of the proposal.

Respondents who submit responses to this RFP shall correctly reveal, disclose and 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 nick-names, 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 signature page of the Proposal.

## **VII. AMENDMENTS TO RFP**

Changes, amendments, or written responses to questions received in compliance with Section VIII, Restrictions on Communication may be posted on City's website at <http://epay.sanantonio.gov/RFPListings/>. It is Respondent's responsibility to review this site and ascertain whether any amendments have been made prior to submission of a proposal. A Respondent who does not have access to the Internet, shall notify City in accordance with Section VIII, Restrictions on Communication, that Respondent wishes to receive copies of changes, amendments, or written responses to questions by mail or facsimile.

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

## VIII. RESTRICTIONS ON COMMUNICATION

Once this RFP has been released, Respondents are prohibited from communicating with City staff regarding the RFP or Submittals, with the following exceptions:

Respondents are prohibited from communicating with elected City officials and their staff regarding the RFP or submittal from the time the RFP 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 RFP 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 RFP and/or submittal submitted by Respondents. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent’s submittal from consideration. Exceptions to the restrictions on communication with City employees include:

1. Respondents may ask verbal questions concerning this RFP at the Pre-Submittal Conference.
2. Respondents may submit written questions concerning this RFP to the Staff Contact Person listed in the address below until **4:00 PM on Thursday, August 6, 2012**. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by electronic mail.

Questions sent by certified mail, return receipt requested, will also be accepted and should be addressed to:

Diana Vasquez, Contract Officer  
City of San Antonio, Capital Improvements Management Services Department  
Contract Services Division  
114 W. Commerce Street, 9<sup>th</sup> Floor, Room 900  
San Antonio, TX 78205  
diana.vasquez@sanantonio.gov

3. Respondents and/or its agents are encouraged to contact the Small Business Office of the Capital Improvements Management Services Department for assistance or clarification with issues specifically related to Outreach and Diversity and Past Utilization of Small, Minority, or Women Owned Business Enterprise (SWMBE) Firms. The point of contact is Brenda Navarro. Ms. Navarro may be reached by telephone at (210) 207-5442 or by e-mail at **brenda.navarro@sanantonio.gov**. Contacts to the Small Business Office regarding this solicitation after the solicitation closing date is not permitted.
4. Respondents and/or their agents are encouraged to contact the Small Business Office of the Economic Development Department for assistance or clarification with issues specifically related to City’s Small Business Economic Development Advocacy (SBEDA) Program policy and/or completion of the SBEDA form. *This exception to the restriction on communication does not apply, and there is no contact permitted to the Small Business Office regarding this solicitation, after the solicitation closing date.*
5. Respondents may provide responses to questions asked of them by the Staff Contact Person after responses are received and opened. During interviews, if any, verbal questions and explanations will be permitted. If interviews are conducted, Respondents shall not bring lobbyists. City reserves the right to exclude any persons from such selection committee meetings as it deems in its best interests.

## IX. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

City reserves the right to award one, more than one, or no contract(s) in response to this RFP.

- A. The Contracts, if awarded, will be awarded to the Respondents whose submittals are deemed most advantageous to City, as determined by the selection committee, upon approval by City Council.
- B. City may accept any submittal in whole or in part. If subsequent negotiations are conducted, they shall not constitute a rejection or alternate RFP on the part of City. However, final selection of a Respondent is subject to City Council approval.

- C. City reserves the right to accept one or more submittals or reject any or all submittals received in response to this RFP, and to waive informalities and irregularities in the proposals received. City also reserves the right to terminate this RFP, and reissue a subsequent solicitation, and/or remedy technical errors in the RFP process.
- D. City will require the selected Respondent(s) to execute a contract with City in substantially the same form as attached, prior to City Council award. No work shall commence until City signs the contract document(s) and Respondent provides the necessary evidence of insurance as required in this RFP and the contract. Contract documents are not binding until approved by City Attorney. In the event the parties cannot negotiate and execute a contract within the time specified by City, City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.
- E. This RFP does not commit City to enter into a Contract, award any services related to this RFP, nor does it obligate City to pay any costs incurred in preparation or submission of a response or in anticipation of a contract.
- F. City administers its design and construction management through an Internet-based management system. All vendors will be required to use City's system and submit schedules.
- G. **Conflicts of Interest:** Respondent acknowledges that it is informed that the Charter of City of San Antonio 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: City officer or employee; his parent, child or spouse; a business entity in which he or his parent, child or spouse owns ten percent or more of the voting stock or shares of the business entity, or ten percent 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.
- H. Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of City, as defined in Section 2-42 of City's Ethics Code. (Discretionary Contracts Disclosure) – Instructions and web-link to electronic form are included in Form 3 of RFP.
- I. **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.
- J. 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 City, shall file a completed conflict of interest questionnaire with City Clerk not later than the seventh (7<sup>th</sup>) business day after the date the person:

(1) begins contract discussions or negotiations with City; or

(2) submits to City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with City. The conflict of interest questionnaire form is available from the Texas Ethics Commission by accessing either of the following web addresses:

[http://www.ethics.state.tx.us/whatsnew/conflict\\_forms.htm](http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm)

or

<http://www.ethics.state.tx.us/forms/CIQ.pdf>.

Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of City Clerk. If mailing a completed conflict of interest questionnaire, mail to:

Office of City Clerk  
P.O. Box 839966  
San Antonio, TX 78283-3966.

If delivering a completed conflict of interest questionnaire, deliver to:

Office of City Clerk  
City Hall, 2<sup>nd</sup> floor  
100 Military Plaza  
San Antonio, TX 78205

Respondent should consult its own legal advisor with questions regarding the statute or form.

- K. All submittals become the property of 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, 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.
- L. Any cost or expense incurred by the Respondent that is associated with the preparation of the submittal, the Pre-Submittal Conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.
- M. **Solicitation Process Review:** Any respondent desiring a review of the solicitation process must deliver a written request to the Director of CIMS within 7 calendar days from the date the notice of non-selection was sent. When the CIMS Director receives a timely written request, the CIMS Director, or designee, shall review the respondents concerns and the solicitation process for legitimacy and procedural correctness. After performing a full review, the CIMS Director will notify the respondent in writing of his determination.
- N. **Debriefings:** In an effort to improve solicitation responses, CIMS is making available on its web site a "Solicitation Response Tip List" that includes the top common items that "make or break" submissions. Providing this information prior to the due date of the submittal provides Respondents with an opportunity to develop a better response for each solicitation. As a result of this up-front effort, each Respondent is entitled to a one (1) debriefing per calendar year after the San Antonio City Council has made an award if:
  - (a) they are not the selected respondent; and
  - (b) they have not been debriefed since January 1, 2012.Once a firm has been debriefed, it will not be eligible for future debriefings within that calendar year. Any Respondent meeting the above criteria that desires an individual submittal debriefing must deliver a written request to the CIMS Contract Services Division within seven (7) calendar days from the date a notice of non-selection was sent.
- P. City reserves the right to verify any and all information submitted by Respondents at anytime of the solicitation/evaluation process.
- Q. Final approval of a selected firm(s) is subject to the action of the San Antonio City Council.
- R. City reserves the right to contact any Respondent to negotiate if such is deemed desirable by City.

## **X. SBEDA ORDINANCE COMPLIANCE PROVISIONS**

### **A. Solicitation Response and Contract Requirements and Commitment**

Respondent understands and agrees that the following provisions shall be requirements of this solicitation and the resulting contract, if awarded, and by submitting its Response, Respondent commits to comply with these requirements.

**Exception Request** - A Respondent may, for good cause, request an Exception to the application of the SBEDA Program if the Respondent submits the *Exception to SBEDA Program Requirements Request* form (available at <http://www.sanantonio.gov/edd/SmallBusiness>) with its solicitation response. The Respondent's Exception request must fully document why: (1) the value of the contract is below the \$50,000 threshold for application of the SBEDA Program; or (2) no commercially-useful subcontracting opportunities exist within the contract scope of work; or (3) the type of contract is outside of the scope of the SBEDA Ordinance. **Late Exception Requests will not be considered.**

#### B. SBEDA Program

City has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531 and as amended, also referred to as "SBEDA" or "the SBEDA Program"), which is posted on City's Economic Development (EDD) website page and is also available in hard copy form upon request to City. The SBEDA Ordinance Compliance Provisions contained in this section of the Agreement are governed by the terms of this Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by City pursuant to this Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this section of the Agreement shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

#### C. Definitions

**Affirmative Procurement Initiatives (API)** – Refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise ("S/M/WBE") Program tools and Solicitation Incentives that are used to encourage greater Prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance.)

**Centralized Vendor Registration System (CVR)** – a mandatory electronic system wherein City requires all prospective Respondents and Subcontractors that are ready, willing and able to sell goods or services to City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from City. The CVR-assigned identifiers are also used by the Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE firms by Industry or commodity codes, and for establishing Annual Aspirational Goals and Contract-by-Contract Subcontracting Goals.

**Certification or "Certified"** – the process by which the Small Business Office (SBO) staff determines a firm to be a bona-fide small, minority-, women-owned, or emerging small business enterprise. Emerging Small Business Enterprises (ESBEs) are automatically eligible for Certification as SBEs. Any firm may apply for multiple Certifications that cover each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, City accepts any firm that is certified by local government entities and other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

**Commercially Useful Function** – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where

applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by Contractor to perform such “pass-through” or “conduit” functions that are not commercially useful shall be viewed by City as fraudulent if Contractor attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, Contractor shall not be given credit for the participation of its S/M/WBE Subcontractor or joint venture partner towards attainment of S/M/WBE utilization goals, and Contractor and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

**Evaluation Preference** – an API that may be applied by the Goal Setting Committee (“GSC”) to Construction, Architectural & Engineering, Professional Services, Other Services, and Goods and Supplies contracts that are to be awarded on a basis that includes factors other than lowest price, and wherein responses that are submitted to City by S/M/WBE firms may be awarded additional Points in the evaluation process in the scoring and ranking of their proposals against those submitted by other prime Contractors or Respondents.

**Good Faith Efforts** – documentation of Contractor’s or Respondent’s intent to comply with S/M/WBE Program Goals and procedures including, but not limited to, the following: (1) documentation within a solicitation response reflecting the Respondent’s commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office’s directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor’s posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Respondent; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors.) The appropriate form and content of Contractor’s Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

**HUBZone Firm** – a business that has been certified by U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet the following criteria: (1) it must be owned and Controlled by U.S. citizens; (2) at least 35 percent of its employees must reside in a HUBZone; and (3) its Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

**Independently Owned and Operated** – ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

**Individual** – an adult person that is of legal majority age.

**Industry Categories** – procurement groupings for City of San Antonio inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services, and Goods & Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term may sometimes be referred to as “business categories.”

**Minority/Women Business Enterprise (M/WBE)** – firm that is certified as a Small Business Enterprise and also as either a Minority Business Enterprise or as a Women Business Enterprise, and which is at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members and/or women, and that is ready, willing and able to sell goods or services that are purchased by City of San Antonio.

**M/WBE Directory** – a listing of minority- and women-owned businesses that have been certified for participation in City’s M/WBE Program APIs.

**Minority Business Enterprise (MBE)** – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified a Small Business Enterprise and also as being at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, and that is ready, willing and able to sell goods or services that are purchased by City. To qualify as an MBE, the enterprise shall meet the Significant Business Presence requirement as defined herein. Unless otherwise stated, the term “MBE” as used in this Ordinance is not inclusive of women-owned business enterprises (WBEs).

**Minority Group Members** – African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

African-Americans: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indian.

Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

Native Americans: Persons having no less than 1/16<sup>th</sup> percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

**Originating Department** – City department or authorized representative of City which issues solicitations or for which a solicitation is issued.

**Payment** – dollars actually paid to Contractors and/or Subcontractors and vendors for CITY contracted goods and/or services.

**Points** – the quantitative assignment of value for specific evaluation criteria in the vendor selection process used in some Construction, Architectural & Engineering, Professional Services, and Other Services contracts (e.g., up to 10 points out of a total of 100 points assigned for S/M/WBE participation as stated in response to a Request for Proposals).

**Prime Contractor** – the vendor or Contractor to whom a purchase order or contract is issued by City of San Antonio for purposes of providing goods or services for City. For purposes of this agreement, this term refers to Contractor.

**Relevant Marketplace** – the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the MGT Studies, and for determining eligibility for participation under various programs established by the SBEDA Ordinance, is defined as the San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Banderita, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

**Respondent** – a vendor submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by City. For purposes of this agreement, Contractor is the Respondent.

**Responsible** – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

**Responsive** – a firm's submittal (bid, response or proposal) conforms in all material respects to the solicitation (Invitation for Bid, Request for Qualifications, or Request for Proposal) and shall include compliance with S/M/WBE Program requirements.

**San Antonio Metropolitan Statistical Area (SAMSA)** – also known as the Relevant Marketplace, the geographic market area from which City's MGT Studies analyzed contract utilization and availability data for disparity (currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

**SBE Directory** - a listing of small businesses that have been certified for participation in City's SBE Program APIs.

**Significant Business Presence** – to qualify for this Program, a S/M/WBE must be headquartered or have a *significant business presence* for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the eight counties that make up the San Antonio Metropolitan Statistical Area (SAMSA), from which 20% of its full-time, part-time and contract employees are regularly based, and from which a substantial role in the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

**Small Business Enterprise (SBE)** – a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is Independently Owned and Operated by Individuals legally residing in, or that are citizens of, the United States or its territories, and which meets the U.S. Small Business Administration (SBA) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements as defined herein.

**Small Business Office (SBO)** – the office within the Economic Development Department (EDD) of City that is primarily responsible for general oversight and administration of the S/M/WBE Program.

**Small Business Office Manager** – the Assistant Director of the EDD of City that is responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager is also responsible for enforcement of Contractor and vendor compliance with contract participation requirements, and ensuring that overall Program goals and objectives are met.

**Small Minority Women Business Enterprise Program (S/M/WBE Program)** – the combination of SBE Program and M/WBE Program features contained in the SBEDA Ordinance.

**Subcontractor** – any vendor or Contractor that is providing goods or services to a Prime Contractor or Contractor in furtherance of the Prime Contractor's performance under a contract or purchase order with City. A copy of each binding agreement between Contractor and its Subcontractors shall be submitted to City prior to execution of this contract agreement and any contract modification agreement.

**Suspension** – the temporary stoppage of the SBE or M/WBE firm's beneficial participation in City's S/M/WBE Program for a finite period of time due to cumulative contract payments the S/M/WBE firm received during a fiscal year that exceed a certain dollar threshold as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance, or the temporary stoppage of Contractor's and/or S/M/WBE firm's performance and payment under CITY contracts due to City's imposition of Penalties and Sanctions set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

**Subcontractor/Supplier Utilization Plan** – a binding part of this contract agreement which states Contractor's commitment for the use of Joint Venture Partners and / or Subcontractors/Suppliers in the performance of this contract agreement, and states the name, scope of work, and dollar value of work to be performed by each of Contractor's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, of dollar values of work to be performed requires an amendment to this agreement to be approved by the EDD Director or designee.

**Women Business Enterprises (WBEs)** - any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of the SBEDA Ordinance as being a Small Business Enterprise and that is at least fifty-one percent (51%) owned, managed and Controlled by one or more non-minority women Individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing and able to sell goods or services that are purchased by City and that meets the Significant Business Presence requirements as defined herein. Unless otherwise stated, the term "WBE" as used in this Agreement is not inclusive of MBEs.

#### D. SBEDA Program Compliance – General Provisions

As Contractor acknowledges that the terms of City's SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in City's SBEDA Policy & Procedure Manual are in furtherance of City's efforts at economic inclusion and, moreover, that such terms are part of Contractor's scope of work as referenced in City's formal solicitation that formed the basis for contract award and subsequent execution of this Agreement, these SBEDA Ordinance requirements, guidelines and procedures are hereby incorporated by reference into this Agreement, and are considered by the Parties to this Agreement to be material terms. Contractor voluntarily agrees to fully comply with these SBEDA program terms as a condition for being awarded this contract by City. Without limitation, Contractor further agrees to the following terms as part of its contract compliance responsibilities under the SBEDA Program:

1. Contractor shall cooperate fully with the Small Business Office and other CITY departments in their data collection and monitoring efforts regarding Contractor's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its Subcontractors with this term;
2. Contractor shall cooperate fully with any CITY or SBO investigation (and shall also respond truthfully and promptly to any CITY or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of Contractor or its Subcontractors or suppliers;
3. Contractor shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;
4. Contractor shall immediately notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to Contractor's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by Contractor to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by Contractor of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to

Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.

5. Contractor shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with City, as well as any transfer or change in its ownership or business structure.
6. Contractor shall retain all records of its Subcontractor payments for this contract for a minimum of four years or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years or as required by state law following the final determination of litigation, whichever is later.
7. In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a Contractor's Subcontractor / Supplier Utilization Plan, Contractor shall not be given credit for the participation of its S/M/WBE or HUBZone Subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and Contractor and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.
8. Contractor acknowledges that City will not execute a contract or issue a Notice to Proceed for this project until Contractor and each of its Subcontractors for this project have registered and/or maintained active status in City's Centralized Vendor Registration System, and Contractor has represented to CITY which primary commodity codes each registered Subcontractor will be performing under for this contract.

E. SBEDA Program Compliance – Affirmative Procurement Initiatives

City has applied the following contract-specific Affirmative Procurement Initiative to this contract. Contractor hereby acknowledges and agrees that the selected API requirement shall also be extended to any change order or subsequent contract modification and, absent SBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

**SBE Prime Contract Program.** In accordance with the SBEDA Ordinance, Section III. D. 1. (a), this contract is being awarded pursuant to the SBE Prime Contract Program, and as such, Contractor affirms that if it is presently certified as an SBE, Contractor agrees not to subcontract more than 49% of the contract value to a non-SBE firm.

F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this Agreement, Contractor represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, Contractor shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in City's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in CITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Contractor's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to City pursuant to the solicitation for this contract is hereby incorporated into the material terms of this Agreement. Contractor shall

incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to CITY contracts.

#### G. Prompt Payment

Upon execution of this contract by Contractor, Contractor shall be required to submit to CITY accurate progress payment information with each invoice regarding each of its Subcontractors, including HUBZone Subcontractors, to ensure that Contractor's reported subcontract participation is accurate. Contractor shall pay its Subcontractors in compliance with Chapter 2251, Texas Government Code (the "Prompt Payment Act") within ten days of receipt of payment from CITY. In the event of Contractor's noncompliance with these prompt payment provisions, no final retainage on the Prime Contract shall be released to Contractor, and no new CITY contracts shall be issued to Contractor until City's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

#### H. Violations, Sanctions and Penalties

In addition to the above terms, Contractor acknowledges and agrees that it is a violation of the SBEDA Ordinance and a material breach of this Agreement to:

1. Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;
2. Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;
3. Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;
4. Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and
5. Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

Any person who violates the provisions of this section shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

1. Suspension of contract;
2. Withholding of funds;
3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;
4. Refusal to accept a response or proposal; and
5. Disqualification of Contractor or other business firm from eligibility for providing goods or services to City for a period not to exceed two years (upon City Council approval).