

CITY OF SAN ANTONIO
CAPITAL IMPROVEMENTS MANAGEMENT
SERVICES DEPARTMENT



REQUEST FOR QUALIFICATIONS
(“RFQ”)
DESIGN BUILD SERVICES
FOR
NORTHWEST SERVICE CENTER

Project Number:

40-00162

(RFQ# CIMS022811)

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: Monday, February 28, 2011
SUBMITTAL DEADLINE: Monday, March 28, 2011, 3:00 P.M., Local Time

TABLE OF CONTENTS

SECTION	PAGE NO.
I. Background/Overview	2
II. Definitions	3
III. Project Description/Scope of Services	3
IV. Amendments to the RFQ	6
V. Pre-Submittal Conference	7
VI. Selection Process and Evaluation Criteria	7
VII. Submission Instructions - Phase One of Solicitation	11
VIII. Submittal Document Requirements – Phase One of Solicitation	13
IX. Tentative Schedule for Selection Process and Award	15
X. Restrictions on Communication	16
XI. Award of Contract and Reservation of Rights	17
XII. SBEDA Ordinance Compliance Provisions	19
REQUIRED FORMS, INSTRUCTIONS AND EXHIBITS	
Submittal Cover/Signature Sheet	FORM 1
Submittal Checklist and Table of Contents	FORM 2
General Questionnaire	FORM 3
Discretionary Contracts Disclosure Form and Instructions	FORM 4
Litigation Disclosure Form	FORM 5
Subcontractor/Supplier Utilization Commitment Form	FORM 6
General Conditions for City of San Antonio Building Design Build Contracts (posted separately and incorporated through reference)	Exhibit A
City of San Antonio Draft Design-Build Contract Template (posted separately and incorporated through reference)	Exhibit B
Site plan, elevations and perspective views (posted separately and incorporated through reference)	Exhibit C
LEED Resolution (posted separately and incorporated through reference)	Exhibit D

I. BACKGROUND/OVERVIEW

The City of San Antonio (“the City”), Capital Improvements Management Services Department (“CIMS”) is soliciting for the selection of a Design-Build (“DB”) Firm for the design and construction of the Northwest Service Center, at the northeast corner of West Commerce at Callaghan Rd., in San Antonio, Texas. Five user groups of the City of San Antonio are joining forces for the construction of a modern Service facility incorporating the latest technological advances in the areas of repair, fueling and washing of both heavy and light duty service vehicles and of construction equipment. This replacement facility will house the administrative personnel and associated supplies and equipment for the following four user groups currently located at the existing Northwest Service Center:

- Solid Waste Management Department Field Operations
- Fleet Maintenance and Operations Department
- Public Works (“PW”) Department- Street Maintenance Division
- Housing and Neighborhood Services – Graffiti Abatement

In addition the following, currently located at Brooks City Base:

- Public Works Department- Storm Water Operations

This will allow for the co-location of these related services, the opportunity for joint operations, and shared common spaces. The selected site for the new Northwest Service Center is 23.9 acres at the northeast corner of West Commerce and Callaghan Road.

Responses in the form of Statements of Qualifications (“SOQ”) are requested from qualified DB firms or teams in this first phase of a two-phase selection process. The City intends to enter into a contract with the DB firm with experience in the design/build method of project delivery, experience with the design and construction of administrative office and crew facilities, vehicle maintenance facilities, fueling facilities and materials storage facilities, experience with the design and construction of LEED Silver or greater certified projects (this project is to be designed to LEED Silver standards, but will not be LEED certified) and that provides the best value for the City. The qualified DB firm will provide a completed project, including professional design conforming to all applicable criteria, complete construction services and follow-up work as appropriate, within a Guaranteed Maximum Price for the project developed and submitted by the DB Firm in its response to the second phase of this solicitation (if short-listed and invited to participate in the second phase of the process) and accepted by the City of San Antonio.

This RFQ is the first part of a two-phase solicitation process and provides information for interested parties to prepare and submit a response for consideration by the City of San Antonio. Interested and qualified DB firms who can demonstrate their ability to successfully complete the project are invited to submit their qualifications statements. **Qualification Statements shall not include any information regarding respondent’s fees, pricing, or other compensation. Such information will be solicited from firms qualified by the City to participate in the second phase of the solicitation process.**

II. DEFINITIONS

As used in the Request for Qualifications (RFQ), the terms have the meanings set forth below:

- A. "Bridging Documents" means any information which defines the expectations of the Owner and may include, but is not limited to, existing conditions surveys, geotechnical reports, program of requirements, design standards & guidelines, as well as design development drawings, specifications, and REVIT (v. 2011) model as per City of San Antonio BIM Standard.
- B. "Design-Build Contract" means a single contract with a firm or business entity for the design and construction of the facility, based upon Bridging Documents prepared by the City of San Antonio.
- C. "Design-Build Firm"/"DB Firm" means a partnership, corporation, joint venture or other legal entity or team that includes an engineer or architect and builder qualified to engage in building construction in Texas.
- D. "Construction Documents" means all the design documents to be provided by selected Design-Builder and approved by Owner, including, without limitation, those for use in constructing the project, performing the work, and the rendering of the project fully operational, and shall include, without limitation, detailed plans, drawings, specifications, manuals, and related materials.
- E. "Owner" means the City of San Antonio (City).
- F. "Respondent" shall mean those Design Build Team/Firms that respond to this RFQ.
- G. "Design Criteria Consultant" means the Owner's Architect/Engineering consultant supplying the design development drawings and specifications in the Bridging Documents.

III. PROJECT DESCRIPTION/SCOPE OF WORK

This section is intended to provide potential Respondents to this RFQ with summary information concerning the project requirements, budget, scope and schedule to ensure that Respondents understand the Owner's basic expectations and to allow the Respondent to submit their qualifications accordingly.

The City of San Antonio is seeking to contract with a design-builder who will take the City provided Bridging Documents and, via a design-build contract, complete construction documents as the Architect of Record and perform all required construction for the project, if selected. Upon completion, the design-builder will deliver the completed operational facility or facilities to the Owner.

The Design Build team is asked to provide qualification for the delivery of a City Service Facility which will consist of the following:

- A) The 24,317 gross square feet (GSF) Administrative and Crew Quarters Building will be a 1-story, pre-engineered metal building with clerestories, for the offices and conference rooms, and

wide overhangs for exterior sun shade on the windows. The building will have exterior metal doors and windows. Interior construction will be metal stud framing and gypsum wallboard type construction. This building will house the administrative offices and crew lockers/showers for Public Works administration, Public Works Street Maintenance, Storm Water Operations, Solid Waste Field Operations and Graffiti Abatement Group, a shared 3,300 SF assembly room with a movable partition to subdivide it, a metal and public entrance lobby with a controlled access checkpoint to the administrative spaces beyond, locker facilities for each group, a shared break room and outdoor covered seating area.

B) The 26,117 GSF Vehicle Maintenance Facility will be a tall 1-story, pre-engineered metal building with eight 24' x 80' drive through service bays, another two bays for welding and certification for servicing vehicles of 19,000 SF plus parts, material and fuel storage rooms, customer service facilities and locker facilities. The building will have exterior metal doors and windows. Interior construction will include concrete masonry unit firewalls and in the customer areas will be metal stud framing and gypsum wallboard type construction.

C) The 6,776 GSF Truck and Heavy Truck Cleanout facilities will be tall pre-engineered metal building roof and structural beams with reinforced cmu end and partition walls between bays. This facility will have 7 bays with 2 bays where catwalks are incorporated.

D) The 1,180 GSF Automatic Car Wash will have prefinished metal standing seam roof and wall panels atop reinforced cmu exterior walls.

E) The 4,200 GSF, 350' long Fuel Pump Islands with 7 pumps will have prefinished metal standing seam roof and pre-engineered metal building structural beams and columns and roof framing. They will pump unleaded, diesel high volume, diesel low volume, and propane.

F) The 7,957 GSF Storage, Shops, and Welding Building will have pre-engineered metal building construction with metal wall louvers above reinforced cmu exterior walls. Internal partitions will be metal stud framing and gypsum wallboard type construction as well as metal security screen panels.

G) 13 acres of concrete paving, as well as heavy, medium and light duty asphalt paving.

SPECIAL SYSTEMS AND SITE REQUIREMENTS:

Special systems and supporting facilities include, but are not limited to, Heating Venting Air Conditioning ("HVAC") system, plumbing, mechanical, electrical services, exterior lighting, fire protection and alarm systems, security, Audio/Visual ("A/V"), data and communication cabling, water, gas, sidewalks, driveway, a materials storage yard, fully fenced parking areas with controlled access gates, storm drainage, site improvements including security features and landscaping, and site accessibility for individuals with disabilities, a "packaged" carwash facility, gas pumps, underground gasoline and diesel tanks, propane tank, provisions for urea, natural gas tanks, steel canopy structure, storm drainage, security fencing and controlled access gates. The site will also provide charging stations for electric powered vehicles.

The DB Firms selected to proceed to phase two shall review all user and project requirements, schedule constraints, Bridging Documents, miscellaneous provisions, and other information and incorporate the information provided into the design-build approach submitted during the second

phase of the solicitation. The Design Build Team chosen for this project will use its best skill and judgment in executing and administering this project in the best interest of the Owner and will coordinate with the City, and the City's third-party contractors in implementing any systems requirements of the various Departments including the requirements of the Information Technology Services Department (ITSD). Work shall be conducted in a manner conforming with measures such as the Best Management Practices, Unified Development Code, International Building Code 2009, Americans with Disabilities act (ADA) design guidelines and Texas Accessibility Standards (TAS) and all City of San Antonio Codes and Ordinances required for permit.

The City is currently under contract with a Design Criteria Consultant that will provide the design development documents and 100% Specifications for this project (bridging documents). *This Design Criteria Consultant will continue under contract with the City through project completion and will provide review of the DB Firms Construction Documents, LEED consulting, commissioning, archeological services for antiquities permitting and construction phase monitoring and design and procurement of furnishings package.*

The DB Firm will be responsible for the design and installation for the data, communications, AV and security systems cabling (based on the City's performance specifications and standards), and the Fire Protection systems. These services are not part of the design criteria consultants' scope of work and will require close coordination with the City.

PROJECT TIMELINE:

Notice to Proceed for Design is anticipated to be given in June 2011. Construction is anticipated to begin no later than November 2011, with substantial completion of the entire facility in October 2012. The Selected DB firm shall be responsible for scheduling design and construction for completion within the Owner's time frame, and may propose early permit and construction packages in their response to the second phase of this solicitation. A provision for Liquidated Damages has been included in the Design-Build Contract (see the Contract Template, Exhibit B).

PROJECT BUDGET:

The total estimated budget for this project is \$18,500,000.00.

OWNER REQUIRED PROVISIONS:

ALL DESIGN-BUILD WORK SHALL BE IN ACCORDANCE WITH THE DESIGN-BUILD CONTRACT AND THE GENERAL CONDITIONS FOR CITY OF SAN ANTONIO BUILDING DESIGN-BUILD CONTRACTS (INCLUDED BY REFERENCE IN THIS RFQ).

A. Personnel:

The selected DB firm team shall provide managers and properly trained and experienced personnel and administrative staff to ensure satisfactory performance under a contract awarded in connection with this solicitation.

By submission of this RFQ, Respondent certifies that each individual or business entity which is an engineer or architect proposed be Respondent as a member of the Design-Build

team was selected based on demonstrated competence and qualifications only in accordance with Section 2254.004 of the Texas Government Code.”

B. Project Execution:

1. Following selection of a Design-Build Firm, the firm’s engineers or architects shall complete the Construction Documents utilizing the Bridging Documents, submitting all design elements for review and determination of scope compliance to the Owner at 50%, 85% and 100% completion for review and approval prior to submitting for permit and before construction.
2. An Architect shall be licensed in the State of Texas and shall be responsible for compliance with the requirements including but not limited to the requirements of the Texas Occupation Code, Title 6, Chapter 1051 and the Texas Administrative Code, Title 22, Part 1, Chapter 1. An engineer shall be licensed in the State of Texas and have the responsibility of ensuring compliance with all applicable engineering design requirements including but not limited to the requirements of the Texas Occupation Code, Title 6, Chapter 1001, and the Texas Administrative Code, Title 22, Part 6, Chapter 131.
3. The Owner shall provide or contract for, independently of the Design-Build Contractor, inspection services, special inspection services, testing of construction materials, and any verification testing services necessary for acceptance of the facility by the Owner.
4. Follow-up work and service calls deemed necessary to bring the completed facilities into reliable and consistent service shall be in accordance to Article 3 of the General Conditions for City of San Antonio Building Design Build Contracts.
5. The Design-Build Contractor/Firm shall supply a set of “as-built” construction documents in PDF electronic form and the REVIT model, following City of San Antonio BIM Standards, for the project to the Owner at the conclusion of construction as a precondition to final payment.
6. The selected Design-Build Contractor/Firm shall be required to incorporate public art into the facility and coordinate with Public Art San Antonio and the City-selected artist.

C. Safety/Environmental Protection Programs:

Contractor shall establish and maintain, throughout the contract period, a viable safety program in accordance with requirements of applicable regulatory authorities.

IV. AMENDMENTS TO THE RFQ

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

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFQ. Changes to the RFQ, if any, will be made in writing only.

V. PRE-SUBMISSION CONFERENCE

A Pre-submission Conference will be held on **Friday, March 11 at 10:00 a.m. at the City's Toolyard Facility, located at 10303 Toolyard at Wurzbach Parkway, San Antonio, Texas 78284**. Respondents are encouraged to prepare and submit their questions in writing to the staff contact person listed in Article X of the RFQ three (3) calendar days in advance of the Pre-Submission Conference in order to expedite the proceedings (such that staff may review the questions received and be able to respond verbally during the pre-submission conference).

City's responses to questions received by the 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, but strongly encouraged.

The meeting place is accessible to disabled persons. The Toolyard Facility is wheelchair accessible. Accessible parking spaces are available. 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.

VI. SELECTION PROCESS AND EVALUATION CRITERIA

This RFQ is part of a two-part solicitation process. The City will appoint a selection committee to perform the evaluations and will conduct a comprehensive, fair and impartial evaluation of all Statements of Qualifications received in response to this RFQ and shall rank each submittal received in response to this RFQ using the criteria set forth herein. Based on the evaluation process, the selection committee shall qualify a maximum of five (5) Respondents to participate in Phase Two of the solicitation process.

The second phase of the solicitation process may include an invitation to interview at the City's discretion, and the selection committee will request that the selected, short-listed respondents provide a detailed Guaranteed Maximum Price Proposal based on the Bridging Documents. The second phase of the solicitation process will also include requests for additional information from the short-listed firms. Additional information requested may include more detailed information regarding demonstrated competence and qualifications, the ability of the respondent to meet the project schedule and other information as appropriate.

During the second phase of the solicitation process, the selection committee will evaluate and rank the short-listed firms' submittals based on the published evaluation criteria set forth in this RFQ, which shall include evaluation of the Guaranteed Maximum Price Proposals (including the proposed design phase fee, cost of the work, construction management fee and any value

propositions) as well as other additional information as requested, along with the results of an interview (should interviews be included as part of the second phase of the solicitation process).

The City may also request additional information from Respondents at any time prior to final approval of a selected Respondent.

PHASE ONE SOLICITATION CRITERIA:

The City will consider the background, experience, qualifications and capability of the DB Firm to provide complete contract documents as well as Respondent's project understanding and approach and management plan. Respondents should provide information regarding specific quality experience with projects of a similar nature as follows:

A. Background, Experience and Qualifications of Design-Build Team:

1. **Project Sheets:** Discuss the background and past performance, experience, and qualifications of the Design-Build Firm in providing the services as outlined in this RFQ. Utilizing a one page project sheet for each, identify five (5) design-build or comparable projects completed within the **last five years** by the DB Firm, which preferably will include at least two projects undertaken with a Fixed Budget Contract. For each highlighted project, the project sheet should include the following:

- 1) Description of the project; including level of LEED certification obtained, if any;
- 2) Photograph of project;
- 3) Type of Contract (Design-Bid-Build; Design-Build; Construction Manager At Risk, etc.);
- 4) Role of Design Build Firm on the project;
- 5) Name of Design Firm and/or Licensed Professional Architect and Engineer (note whether this person will work on this proposed project and his/her role planned for this project)
- 6) Project's original contract amount and final contract amount;
- 7) Contract substantial completion date and date of actual substantial completion and explain inconsistencies;
- 8) Project Manager (note whether this person will work on this proposed project and his/her role planned for this project)
- 9) Project Superintendent; (note whether this person will work on this proposed project and his/her role planned for this project)
- 10) The owner's name and the name of the representative (if different) who served as the day-to-day liaison the construction phase of the project in the following format:

Name of Owner: _____
Name of Owner's Representative: _____
Representative's Phone Number: _____
Representative's E-mail: _____

2. **Proposed Key Personnel:** Provide the names of the following proposed Key Personnel for this project and the role they played in the project sheets listed above:

- Licensed Professionals (Architects and Engineers) – identify legal relationship between professionals and builder of the DB Firm
- Project Estimator
- Proposed Project Manager
- Proposed Project Superintendent
- Fuel Distribution Specialist

Resumes of key personnel may be included as Attachment B to Respondent’s Submittal

Resumes should include:

- License type (if applicable) and number of years licensed
- Number of years employed with the DB Firm
- Number of years of experience in proposed role
- Experience with the use of BIM technology in delivery of previous construction projects (particularly identify if any were those projects included in the project sheets)
- Whether a LEED Accredited Professionals and experience obtaining LEED certification on similar projects

3. **Financial Statements:** Respondent shall submit financial statements for the last three years (only 1 copy), preferably audited, with their original response to this RFQ. Financial statements must show the name and address of the firm which prepared the financial statements and the date of preparation as requested in Section VIII, Paragraph L. The Financial Statements shall not be included in the SOQ page limitation.

B. Project Understanding, Approach/Management Plan:

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

- 1) Briefly describe your DB Firm’s understanding of this project type, including all of the requirements to successfully complete the project(s). Provide the approach of your DB firm and/or team partner(s) in meeting those requirements, and comprehensively address all the issues, standards and requirements needed to produce a finished project.
- 2) Provide a statement on the availability and commitment of the DB Firm and its principal(s) and assigned professionals to undertake the project(s).
- 3) Provide a detailed organizational chart or graphic representation of the proposed team identifying key personnel (indexed as Tab “7” in the submittal). Describe, in graphic and written form, the proposed Project assignments and lines of authority and communication for each team member to be directly involved in the project(s). Indicate the estimated percent of time these team members will be involved in the

- project(s) for Design and Construction Services. Affirm that the individuals identified will be committed for the entire duration of the project(s).
- 4) Describe your construction management approach and ability to coordinate work with all designers, sub-contractors (and/or other contractors) and suppliers
 - 5) Describe your DB Firm's Quality Control Process and approach, corporate systems and capabilities to maintain quality control of the design and construction. Describe the proposed quality control organization and participation of the Architect of Record and Contractor of Record, including proposed staffing plan.
 - 6) Briefly describe the firm's approach for anticipating, recognizing and controlling safety risks and note the safety resources that the firm provides for each project's Safety program.
 - 7) Describe how you will develop, maintain and update the project schedule(s) during design and construction to coordinate with the Owner's project schedule or schedules. Describe the way in which your firm develops and maintains its project work schedules to coordinate with the Owner's project schedules. (Submittal of project schedules to the City on a monthly basis using Primavera P6 is required.) For any combination of three (3) projects listed in response to the Evaluation Criteria, Section VI.A. of this RFQ (above), provide examples of how these techniques were used.
 - 8) Describe your approach to assuring timely completion of the project(s), including methods for schedule recovery, if necessary. From any three (3) of the projects listed in response to the Evaluation Criteria, Section VI.A. of this RFQ (above), provide examples of how these techniques were used, including specific scheduling challenges/requirements and actual solutions.
 - 9) Describe your quality assurance program. Explain the methods used to ensure quality control during the development of Construction Documents and during the Construction phase of a project. Provide specific examples of how these techniques or procedures were used from any three (3) projects listed in response to the Evaluation Criteria, Section VI.A. of this RFQ (above).
 - 10) Describe your understanding of and approach to using the REVIT model in the delivery of the project. This information should include the DB firm's capabilities in the use of BIM technology in project delivery. A brief narrative that clearly and concisely describes your understanding and approach to the use of the REVIT model in the delivery of the project, including past experience with the use of BIM technology in delivery of previous construction projects. Describe your understanding of crash and interference, delivery scheduling, cost estimate updates and delivery of closeout documents.

C. Team's Experience with City of San Antonio and City of San Antonio Issues

City is interested in evaluating the Respondents' (including subconsultants/contractors) experience with San Antonio issues, as may be evidenced by previous work in the San Antonio and surrounding area during the past five (5) years. Briefly describe experience in the following areas and reference projects relating to that experience:

- City of San Antonio site development and/or building permit requirements;
- City of San Antonio area construction in the public right-of-way;
- City of San Antonio area construction costs and practices;
- City of San Antonio environmental community, conditions and constraints;
- Public awareness and involvement in project development in the City of San Antonio area;

The scoring for this criteria may be based on the City’s Consultants’ and Contractor Scorecard, other documentation or experience with City projects. The City will consider the history of the firm in complying with project programs, schedules, and budgets on previous **City of San Antonio** projects.

Specific items for consideration may include:

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

The subtotal of all possible points that can be awarded for Phase One for items A through C above is 100 points as set out in the table below.

TOTAL MAXIMUM = 100 POINTS.

Evaluation Criteria Summary:	Weighting Phase One Selection:	Weighting Phase Two Selection:
A. Background, Experience and Qualifications of Design-Build Team	Maximum 40 Points	N/A
B. Project Approach/Management Plan	Maximum 35 Points	Maximum 30 Points
C. Team’s Experience with City of San Antonio Issues	Maximum 25 Points	Maximum 20 Points
D. Guaranteed Maximum Price	N/A	Maximum 50 Points
Total Maximum	100 Points	100 Points

VII. SUBMISSION INSTRUCTIONS - PHASE ONE OF SOLICITATION

When submitting a bid, proposal or SOQ 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.

- A. Interested firms should submit Statements of Qualifications which include a one (1) to two (2) page Executive Summary plus a maximum length of fifteen (15) pages using not less than 10-point font to address the RFQ evaluation criteria (excluding the SBEDA Narrative, required forms and attachments identified in this RFQ), and shall submit one (1) unbound original, signed in ink, eight (8) bound copies, and one (1) compact disc (CD) that contains a copy of the SOQ in Adobe PDF format in a sealed package clearly marked with the project name, "**Design Build Services for the Northwest Service Center**" on the front of the package. All Submittals must be received in the City Clerk's Office no later than **3:00 P.M. Local Time, on Monday, March 28, 2011**, at the address below. Submittals that are delivered to the City 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 the deadline for the receipt of Submittals. Any Submittal 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, Capital Improvements Management Services Department
Attention: Contract Services Division
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address:

City Clerk's Office, Capital Improvements Management Services Department
Attention: Contract Services Division
100 Military Plaza
2nd Floor, City Hall
San Antonio, Texas 78205

Submittals sent by facsimile or email will not be accepted.

- B. Adherence to the maximum page criterion is critical; each page side (maximum 8 1/2" x 11") with criteria information will be counted. Pages that 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. Resumes should not include project pictures or general firm information. The use of recycled paper is encouraged. Three-ring binders are permitted, and with regards to other types of binding, plastic (not metal) spiral, or "comb" binding is recommended. Plastic sheet or "report" covers are not encouraged, card-stock covers are sufficient. Unnecessarily elaborate brochures, artwork, bindings, visual aides, expensive paper or other materials beyond that sufficient to present a complete and effective submission are not encouraged or required. Font size shall be no less than 10-point type. 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 Submittal, other than the CD specified above. Each Submittal must include the sections and attachments in the sequence listed in the RFQ Section VIII, Submittal Document Requirements, and each section must be divided by tabs and indexed in the Submittal Checklist and Table of Contents page. Failure to meet the above conditions may result in disqualification of the Submittal.

- C. Respondents who submit SOQ in response to this RFQ 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 nicknames, abbreviations (unless part of the legal title), shortened or shorthand, 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 their 11-digit Texas Comptroller's Taxpayer Number or 9-digit Internal Revenue Service Taxpayer number on the Signature Page.

If an entity is found to have incorrectly or incompletely stated its name or failed to fully reveal its identity on the Signature Page, the Director of the Capital Improvements Management Services Department shall have the discretion, at any point in the contracting process, to suspend consideration of the Respondent's Submittal.

- D. All provisions in Respondent's Submittal, 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 Submittals 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 page(s) where confidential information is contained. 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 associated with the preparation of the Submittal, the Pre-Submission Conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.

VIII. SUBMITTAL DOCUMENT REQUIREMENTS – PHASE ONE OF THE SOLICITATION

Respondent's Submittal should include the required items in the following sequence:

- A. EXECUTIVE SUMMARY - Respondents shall include a one (1) to two (2) page Executive Summary for the SOQ. The Summary shall include a statement of how the DB firm intends to use the design build method utilizing the Bridging Documents to deliver, accomplish and perform each specific service for the delivery of this training facility.

- B. SUBMITTAL COVER/SIGNATURE SHEET – FORM 1: Respondent must complete, sign, and include the Submittal Cover/Signature Sheet with the Submittal. The Submittal Cover/Signature Sheet must 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. The Cover Page/Signature Sheet shall be indexed as Tab “1” in the submittal.
- C. SUBMITTAL CHECKLIST – FORM 2: Respondent must complete and utilize this form that shall be used as the Table of Contents for the DB Firm’s Submittal (indexed as Tab “2” in the submittal).
- D. RESPONDENT’S GENERAL QUESTIONNAIRE- FORM 3: Indexed as Tab “3” in the submittal.
- E. DISCRETIONARY CONTRACTS DISCLOSURE FORM – FORM 4: All proposed parties to the contract with the City shall complete and return this form with the Submission. Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. This form should be indexed or labeled as Tab “4” in the submittal.
- F. LITIGATION DISCLOSURE FORM- FORM 5 – Completed Litigation Disclosure form as found in RFQ Attachment 5 and additional pages for explanation, if necessary, indexed or labeled as Tab “5” in the submittal.
- G. STATEMENT OF QUALIFICATIONS: The Respondent’s SOQ should be submitted in narrative form and should cover all items included in Section VI. This section is limited to fifteen (15) pages not including forms, attachments, or tabs (if blank) and should be indexed or labeled as **Tab “7”** in the submittal. This includes Project Sheets and other narrative under sections VI. A. 1, VI. B. and VI. C. of this RFQ.
- H. TEAM ORGANIZATIONAL CHART: Provide a detailed organizational chart or graphic representation of the proposed team identifying key personnel as requested in Section VI of the RFQ. The organizational chart shall be indexed or labeled as **Tab “8”** in the submittal.
- I. PROOF OF BONDABILITY AND INSURABILITY: (Indexed and labeled as **Tab “9”** in submittal) Submit a letter from insurance provider stating provider’s commitment to insure the Respondent for the types of coverages and at the levels specified in the attached General Conditions for City of San Antonio Building Design Build Contracts (RFQ Exhibit A) if awarded a contract in response to this solicitation process. Respondent shall also submit a copy of their current insurance certificate. Respondent shall also submit a letter of intent from their bonding company stating in specific terms that the bonding company (Surety) is prepared to issue both payment and performance bonds to the full value of the proposal tendered for each project awarded in response to this solicitation.

- J. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)-FORM 6: **Submit a completed and signed Subcontractor/Supplier Utilization Commitment Form indicated that your firm commits to satisfy a twenty five percent (25%) Small Business Enterprise (SBE) subcontracting goal for this solicitation.** Label and index this form as “**Tab 6**”

During the first phase of this solicitation, absent a waiver granted by the SBO, failure of a Prime Contractor to submit a completed Subcontractor/Supplier Utilization Commitment Form in its response shall render its response NON-RESPONSIVE.

- K. RESUMES (Optional): Labeled as **Attachment “A”** to submittal. Resumes for each key team member shall be limited to a maximum length of two (2) pages as response to section VI. A. 2. of this RFQ.
- L. LETTERS OF REFERENCE (Optional): Respondent may provide a maximum of 5 letters of reference, labeled as **Attachment “B”** to submittal.
- M. FINANCIAL INFORMATION (Submitted with Original SOQ only): Respondent shall submit financial statements for the last three years, preferably audited, with their response to this RFQ. Financial statements must show the name and address of the firm preparing financial statements and the date of preparation. The financial statements shall not be included in the SOQ page limitation. Label as **Attachment “C”** to original submittal.

Respondent is expected to examine this RFQ 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.

IX. TENTATIVE SCHEDULE FOR SELECTION PROCESS AND AWARD

- A. Final approval of a selected Respondent or Respondents is subject to the action of the City of San Antonio City Council.
- B. Submittals may not be withdrawn within one hundred twenty (120) days from date on which submittals are received or opened.
- C. Submission of a response to this solicitation indicates Respondent’s acceptance of the evaluation technique and Respondent’s recognition that some subjective judgments must be made by the City during the evaluation.
- D. The following tentative schedule has been prepared for these projects. Firms interested in one or both of these projects must be available on the interview date.

SOQ Submittal Due Date:	Monday, March 28, 2011
Request for Additional Information and Price Proposal (GMP) Issued to Short-listed Firms:	April 8, 2011
Deadline for Submission of Additional Information and Price Proposals:	May 10, 2011

Interview Date (if required):

May 16, 2011

Anticipated City Council Approval of Contract Award:

June 9, 2011

X. RESTRICTIONS ON COMMUNICATION

A. Respondents are prohibited from communicating with elected City officials and their staff regarding the solicitation, Statements of Qualifications or Proposals from the time the solicitation has been released until the contract is posted as a City Council agenda item. Respondents are prohibited from communicating with City employees, or any outside consultant(s) assisting in the solicitation process, from the time the solicitation 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 solicitation and/or Qualification Statement/Proposal 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 RFQ at the Pre-Submission Conference.
2. Respondents may submit written questions concerning this RFQ to the Staff Contact Person listed below until no later than **4:00 p.m., on Friday, March 18, 2011**. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by electronic mail by facsimile to:

Angelica Mata, Contract Coordinator
City of San Antonio, Capital Improvements Managements Services Department
angelica.mata@sanantonio.gov
Fax No.: (210) 207-5859

3. However, questions sent by certified mail, return receipt requested, will also be accepted and should be addressed to:

Angelica Mata, Contract Coordinator
City of San Antonio, Capital Improvements Management Services Department
114 W. Commerce, Room 900
San Antonio, Texas 78205

4. Technical questions regarding issues with the City’s internet or accessibility of forms will be accepted via telephone by:

Angelica Mata, Contract Coordinator
City of San Antonio, Capital Improvements Managements Services Department
angelica.mata@sanantonio.gov
Fax No.: (210) 207-5859

5. Respondents and/or their agents are encouraged to contact the Small Business Outreach Office of the 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 required forms. The point of contact is Ms. Maria Godina. Ms. Godina may be reached by telephone at (210) 207-5438 or by e-mail at maria.godina@sanantonio.gov. Contacting her or her office regarding this solicitation process after the SOQ Submittal due date is not permitted.

- B. City reserves the right to contact any Respondent to receive clarification or to negotiate a contract with the DB Firm being recommended for contract award if such is deemed desirable by City.

XI. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

It is the intent of the City of San Antonio to award this contract to the DB firm(s)/team(s) whose services provide the best value for the City based on the selection criteria set out in this RFQ, which is phase one of the solicitation process, and in the second phase of the solicitation, as determined when considering the relative importance of price, capability and other published evaluation criteria. The City reserves the right to adopt the most advantageous interpretation of the SOQ, additional information presented and the subsequent GMP Proposals. The City is not bound to accept the lowest priced GMP Proposal if that GMP Proposal is not in the best interest of the City, as determined solely by the City.

The SOQs submitted in response to this RFQ together with the subsequent additional information and GMP Proposal submitted by qualified Respondents in phase two of the solicitation will be analyzed based on the published criteria by the City in determining which DB Firm will provide the best value to the City.

- A. The contract, if awarded, will be awarded to the DB Firm whose submittal is deemed most qualified to City, as determined by the selection committee, and subject to approval of the 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 solicitation on the part of City. However, final selection of DB Firm 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 RFQ and the subsequent interview process, and to waive informalities and irregularities in the submittals received. City also reserves the right to terminate this solicitation, and reissue a subsequent solicitation, and/or remedy technical errors in the process.
- D. City will require the selected DB Firm to execute a contract in substantially the form as attached with the City, 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 the contract. Contract documents are not binding on City until approved by the City Attorney.

- E. In the event the parties cannot negotiate and execute a contract within the time specified by the City, the City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.
- F. This solicitation does not commit the City to enter into a contract, award any services related to this solicitation, nor does it obligate the City to pay any costs incurred in preparation or submission of a response or in anticipation of a contract.
- G. The successful DB Firm must be able to formally invoice the City for services rendered, incorporating the SAP-generated contract and purchase order numbers that shall be provided by the City. The City administers its design and construction management through an Internet-based management system. All vendors are required to comply with Specification 700 of the City of San Antonio Standard Construction Specifications.
- H. Conflicts of Interest. Respondent acknowledges that it is informed that the Charter of the 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: 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 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.
- I. 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 2-42 of the City’s Ethics Code. (Discretionary Contracts Disclosure – Attachment 4 in this RFQ).
- J. 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.
- K. 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 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 by accessing either of the following web addresses:
http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm
<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 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. Respondent should consult its own legal advisor with questions regarding the statute or form.

- L. All submittals and/or any portions thereof 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.
- M. Any cost or expense incurred by the Respondent that is associated with the preparation of the submittal, the Pre-Submission Conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.
- N. All provisions in Respondent's submittal 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
- O. Subsequent to the issuance of this solicitation, the CIMS Department of the City reserves the right to amend it, waive any requirement or irregularity, request modifications to submittals, providing all teams are treated equally, and reject any and all submittals for any reason. The CIMS Department further reserves the right to award one or more contracts for these projects as deemed in its best interest, and to request changes in the composition of any team.
- P. SBEDA- CIMS will follow the SBEDA Ordinance Compliance Provisions outlined in Article XII of this RFQ.
- Q. 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.
- R. INDIVIDUAL SUBMITTAL 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-time debriefing after City Council has made an award if: (a) they are not the selected respondent and (b) they have not been debriefed since January 1, 2011. Once a firm has been debriefed, they will not be eligible for future debriefings on future solicitations. Any respondent meeting the above criteria, that desires an individual submittal debriefing must deliver a written request to the Director of CIMS within 7 calendar days from the date the notice of non-selection was sent.

XII. SBEDA ORDINANCE COMPLIANCE PROVISIONS

A. Solicitation Response, Commitment and Contract Requirements

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. During the first phase of this solicitation, absent a waiver granted by the SBO, failure of a Prime Contractor to submit a completed Subcontractor/Supplier Utilization Commitment form in its response shall render its response NON-RESPONSIVE. During the second phase of this solicitation, if a Respondent is invited to submit a price proposal, absent a waiver granted by the SBO, failure of a Respondent to include a fully-documented and signed SBO-promulgated Subcontractor/Supplier Utilization Plan satisfying the SBE subcontracting goal shall render its response NON-RESPONSIVE.

Waiver Request - A Respondent may request, for good cause, a full or partial waiver of a **specified subcontracting goal** included in this solicitation by submitting the *Respondent Subcontracting Waiver Request* (available at http://www.sanantonio.gov/edd/SmallBusiness/SBEDA_Forms.aspx) to the Small Business Office no less than 7 business days prior to the solicitation closing date, fully documenting subcontractor unavailability despite the Respondent's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by Respondent including, but not limited to, which subcontractors (with phone numbers, e-mail addresses and mailing addresses, as applicable) were contacted. Respondent shall submit the Waiver Request to Ms. Aurora Perkins, Sr. Economic Development Specialist at fax number 210-207-8151 or by e-mail to Aurora.Perkins@sanantonio.gov . Late Waiver Requests will not be considered.

Exception Request - A Respondent may, for good cause, request an Exception to the application of the SBEDA Program and its Affirmative Procurement Initiatives to this solicitation if the Respondent submits the *Exception to SBEDA Program Requirements Request* (available at http://www.sanantonio.gov/edd/SmallBusiness/SBEDA_Forms.aspx) form with its solicitation response, fully documenting subcontractor unavailability despite the Respondent's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by Respondent including, but not limited to, which subcontractors (with phone numbers, e-mail addresses and mailing addresses, as applicable) were contacted. Late Exception Requests will not be considered.

B. SBEDA Program

The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531, also referred to as "SBEDA" or "the SBEDA Program"), which is posted on the City's International and Economic Development (IEDD) website page and is also available in hard copy form upon request to the 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 the 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.)

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, the 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 the 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, the 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 the CONTRACTOR and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

Good Faith Efforts – documentation of the 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 the 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 the 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.”

Originating Department – the CITY department or authorized representative of the 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.

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

San Antonio Metropolitan Statistical Area (SAMSA) – also known as the Relevant Marketplace, the geographic market area from which the 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 the City's SBE Program APIs.

SBE Subcontracting Program – an API in which Prime Contractors or vendors are required to make Good Faith Efforts to subcontract a specified percentage of the value of prime contract dollars to certified SBE firms. Such subcontracting goals may be set and applied by the GSC on a contract-by-contract basis to those types of contracts that provide subcontract opportunities for performing Commercially Useful Functions wherein there have been ongoing disparities in the utilization of available SBE Subcontractors.

When specified by the GSC, the SBE Subcontracting Plan or Good Faith Efforts plan submitted by CONTRACTOR may also be required to reflect Good Faith Efforts that a Prime Contractor or vendor has taken (or commits to taking in the case of solicitations that do not include a detailed scope of work or those in which price cannot be considered a factor in evaluation), toward attainment of subcontracting goals for SBE firms.

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 International and Economic Development Department (IEDD) of the 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 IEDD of the 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.

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 the City. A copy of each binding agreement between the CONTRACTOR and its subcontractors shall be submitted to the 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 the 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 the 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 the 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 IEDD Director or designee.

D. SBEDA Program Compliance – General Provisions

As CONTRACTOR acknowledges that the terms of the CITY’s SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in the CITY’s SBEDA Policy & Procedure Manual are in furtherance of the CITY’s efforts at economic inclusion and, moreover, that such terms are part of CONTRACTOR’s scope of work as referenced in the 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 the 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 the 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, the 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 the CONTRACTOR and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

E. SBEDA Program Compliance – Affirmative Procurement Initiatives

The 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 Subcontracting Program. In accordance with SBEDA Ordinance Section III. D. 1. (c), this contract is being awarded pursuant to the SBE Subcontracting Program. CONTRACTOR agrees to subcontract at least *the amount indicated on the 011 and Utilization Plan for this project* of its prime contract value to certified SBE firms headquartered or have a significant business presence within the San Antonio Metropolitan Statistical Area (SAMSA). The Subcontractor / Supplier Utilization Plan that CONTRACTOR submitted to CITY with its response for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified SBE Subcontractors to be used by CONTRACTOR on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each SBE Subcontractor, and documentation including a description of each SBE Subcontractor's scope of work and confirmation of each SBE Subcontractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the SBO, the failure of CONTRACTOR to attain this subcontracting goal for SBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the CITY, and may result in debarment from performing future CITY contracts, withholding of payment for retainage equal to the dollar amount of the underutilization below the agreed upon SBE subcontracting goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law.

F. Commercial Nondiscrimination Policy Compliance

As a condition of entering into this agreement, the 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, the 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 the 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 the CITY pursuant to the solicitation for this contract is hereby attached and 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 the 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 the CONTRACTOR until the CITY's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

E. 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 the City for a period not to exceed two years (upon City Council approval).