

AN ORDINANCE 2008-10-09-0898

RATIFYING A CONTRACT WITH CONSOLIDATED TRAFFIC CONTROLS, INC. FOR CONVERSION OF THE EXISTING TIME SWITCHES FROM A BASIC SIGNALING PATTERN RECEIVER TO A NEW COMMUNICATIONS PROTOCOL RECEIVER FOR THE SCHOOL FLASHING BEACON SYSTEM FOR A COST OF \$156,348.00, FROM CAPITAL PROJECT FUNDS.

* * * * *

WHEREAS, the City of San Antonio (“City”) used Post Office Code Standardization Advisory Group (POCSAG) pager code format to address 909 school flasher locations throughout the City; and

WHEREAS, the FLEX code, Motorola’s new protocol standard for paging, is new technology that provides one-way communication from the provider to the pager device, which would allow the Public Works Department to remotely turn on and off the school flashers located throughout the City; and

WHEREAS, due to technology advancements and limited use of the POCSAG code format, the City’s service provider, USA Mobility, abandoned the current POCSAG frequency cap code, which required reprogramming of the hardware for the 909 school flasher locations in order to change to another frequency cap code; and

WHEREAS, immediate action was necessary to re-program the school flashing beacon system in order to meet the October 31, 2007 termination deadline; and

WHEREAS, an offer was submitted by Consolidated Traffic Controls, Inc., the only authorized distributor for this proprietary product, to provide the City with labor and materials for the conversion from the existing time switches from POCSAG pager receivers to FLEX pager receivers for the School Flashing Beacon System, for a cost of \$156,348.00; and

WHEREAS, the Texas Local Government Code indicates that competitive bidding is not required under section 252.022(a)(2) which provides for a procurement necessary to protect the public health or safety or 252.022(a)(7)(A) for purchases available from only one source; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

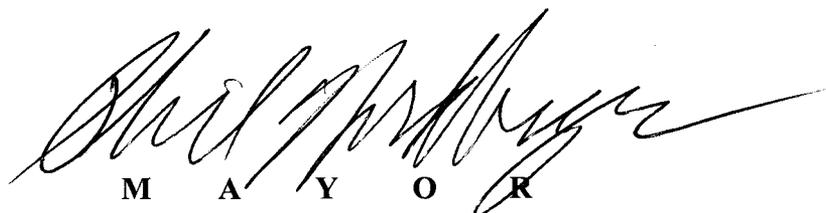
SECTION 1. The offer submitted by Consolidated Traffic Controls, Inc. to provide the City of San Antonio with labor and materials for the conversion from the existing time switches from POCSAG pager receivers to FLEX pager receivers for the School Flashing Beacon System, for a cost of \$156,348.00 is hereby accepted, and said purchase is hereby ratified. A copy of the bid tabulation and contract are attached hereto and incorporated herein for all purposes as Exhibit I.

SECTION 2. Payment to Consolidated Traffic Controls, Inc. in the amount of \$156,348.00 is hereby ratified.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the Interim City Manager or the Interim City Manager's designee, correct allocation to specific SAP Fund Numbers and Internal orders as necessary to carry out the purpose of this Ordinance.

SECTION 4. This ordinance shall take effect October 19, 2008.

PASSED AND APPROVED this 9th day of October, 2008.



M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 7

Name:	6, 7, 8, 11, 12, 13, 14, 15A, 15D, 16, 17, 19, 20, 21, 22, 23, 24, 25A, 25B, 26, 28B, 28C, 29
Date:	10/09/2008
Time:	02:51:49 PM
Vote Type:	Motion to Approve
Description:	An Ordinance ratifying a contract with Consolidated Traffic Controls, Inc. for conversion of the existing time switches from a basic signaling pattern receiver to a new communications protocol receiver for the School Flashing Beacon System for a cost of \$156,348.00 from Capital Project Funds. [Sharon De La Garza, Assistant City Manager; Janie Cantu, Director, Purchasing & General Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3	x					
Philip A. Cortez	District 4	x					
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				x
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

City of San Antonio Bid Tabulation

Exhibit I

Date: August 1, 2007			Consolidated Traffic Controls, Inc. PO Box 151837 Arlington, TX 76015 (817) 265-3421
For: Convert School Flashing Beacon System			
07-135		JW	
Item	Description	Estimated Quantity	
1	Convert existing CPR2102 time switches from POCSAG pager receivers to FLEX pager receivers.		
	Price per Time Switch Conversion	909	\$172.00
Total Award:			\$156,348.00

**CITY OF SAN ANTONIO
PURCHASING AND CONTRACT SERVICES DEPARTMENT**

Issued By: JW
RFO NO.: 07-135 JW

Date Issued: July 26, 2007
Page 1 of 14

**REQUEST FOR OFFERS
TO CONVERT SCHOOL FLASHING BEACON SYSTEM**

PLEASE REVIEW THE TERMS AND CONDITIONS FOR THIS REQUEST AND
PROVIDE YOUR OFFER NO LATER THAN 10:00 A.M., AUGUST 1, 2007.

The City of San Antonio Purchasing and Contract Services Department is willing to assist any vendor(s) in the interpretation of provisions or explanation of how forms are to be completed. Assistance can be received by visiting the Purchasing and Contract Services Office in the City Hall Annex, 131 W. Nueva, or by calling (210) 207-7260.

It is the policy of the City of San Antonio to involve qualified Small, Minority, Woman-owned, and local business in construction, procurement, professional services, and leases and concessions contracting. The City of San Antonio has established the following minority business enterprise (MBE), woman business enterprise (WBE), African-American business enterprise (AABE), and small business enterprise (SBE) utilization goals:

MBE Goal: 15% WBE Goal: 10%
AABE Goal: 3% SBE Goal: 50%

This invitation includes these forms:

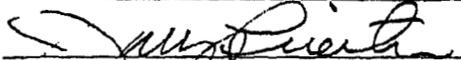
Request for Offer
Terms and Conditions of RFO

Specifications and General Requirements
Price Schedule

The undersigned, by his/her signature, represents that he/she is authorized to bind the offer or to fully comply with the Specifications and General Requirements for the amount(s) shown on the accompanying offers sheet(s). By signing below, you have read the entire document and agreed to the terms therein.

Firm Name: Consolidated Traffic Controls, Inc. Telephone Number: (817)265-3421 (800) 448-8841

Address: P.O. Box 151837 City, State, and Zip Code: Arlington, TX 76015


Signature of Person Authorized to Sign Offer: _____ Signer's Name: Jerry Priester, Vice President
(Please Print or Type)

Email Address: hjpriester@aol.com

Please complete the following:

Prompt Payment Discount: Net % 30 days. (If no discount is offered, Net 30 will apply.)

Please check the following blanks which apply to your company:

Ownership of firm (51% or more): **Please complete the following:**

Non-minority Hispanic African-American Other Minority (specify) _____
 Female Owned Handicapped Owned Small Business (less than \$1 million annual receipts or 100 employees)
Indicate Status: Partnership Corporation Sole Proprietorship Other (specify) _____

Tax Identification Number: 75-1696685

FOR CITY USE ONLY

AWARD

Items Accepted: _____ Ordinance No: _____ Date: _____ Amount: _____

Approved: _____

CITY OF SAN ANTONIO

STANDARD CONTRACT TERMS AND CONDITIONS

READ CAREFULLY

1. GENERAL CONDITIONS

Vendors are required to submit their offer upon the following expressed conditions:

- a. Vendors shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.
- b. Vendors shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the solicitation conditions. No plea of ignorance by the vendor of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the vendor to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.
- c. Vendors are advised that all City contracts are subject to all legal requirements provided for in the City Charter and/or applicable City Ordinances, state and federal statutes. Any offer, after being opened, becomes subject to the Open Information Act, Government Code Chapter 552, therefore Vendors must clearly indicate any portion of the submitted offer that the vendor claims is not subject to public inspection under the Open Information Act.
- d. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City of any materials, supplies or services, except on behalf of the City as an officer or employee. This prohibition extends to the City Public Service Board, San Antonio Water System, and all City boards and commissions other than those which are purely advisory. In this instance a City employee is defined as any employee of the City who is required to file a financial involvement report pursuant to the City's ethics ordinance.

2. PREPARATION OF OFFERS

Offers will be prepared in accordance with the following:

- a. All information required by the request shall be furnished or the offer may be rejected. The vendor shall print or type name and manually sign the request for quote.
- b. Where there is a discrepancy between the unit price and the extended price, the unit price shall prevail.
- c. Any offer that is considered for award on an "all or none" basis must include a price quote for all units or line items. Any offer that is considered for award by each unit or line item must include a price for each unit or line item for which the vendor wishes to be considered. Any ambiguity in the offer as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of the City.
- d. Alternate offers may be allowed at the sole discretion of the City.
- e. Vendors will neither include federal taxes nor State of Texas limited sales excise and use taxes in quoted prices since the City of San Antonio is exempt from payment of such taxes. An exemption certificate will be signed by City where applicable upon request by vendor.

3. DESCRIPTION OF SUPPLIES

Any catalog or manufacturer's reference used in describing an item is merely descriptive, and not restrictive, unless otherwise noted, and is used only to indicate type and quality of material. Each offer must clearly identify the proposed product, the quantity of the product, model, and type, as applicable. Prorata adjustments to packaging and pricing may be allowed at the sole discretion of the City.

4. ASSURANCE OF COMPLIANCE - EQUAL EMPLOYMENT OPPORTUNITY AND SMALL AND/OR MINORITY BUSINESS ADVOCACY REQUIREMENTS

It is the policy of the City of San Antonio that Small and/or Minority Business Enterprises shall have the maximum practicable opportunity to participate in the performance of public contracts. Vendor agrees that if this offer is accepted, he/she will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age, handicap or political belief or affiliation. In addition, vendor agrees, by submittal of this offer, that he/she will abide by all applicable terms and provisions of this Nondiscrimination Clause and the Small Business Advocacy Clause. These clauses are available in the City's Department of Economic and Employment Development and the City Clerk's Office.

5. SAMPLES, DEMONSTRATIONS AND TESTING

At the City's request and direction, vendor shall provide product samples and/or testing of items offered to ensure compliance with specifications. Samples, demonstrations and/or testing may be requested prior to award of the contract, upon delivery and/or at any point during the term of resulting contract. After notification, samples, demonstrations and/or testing must be provided within ten days. Failure to provide samples prior to award of contract will disqualify vendor from consideration. All samples (including return thereof), demonstrations and/or testing shall be at the expense of the vendor. Samples will be returned upon request; otherwise, samples will become property of the City of San Antonio, ten days after award of the contract.

6. REJECTION OF OFFERS

- a. The City may reject an offer if:
 - 1) The vendor misstates or conceals any material fact in the proposed offer; or
 - 2) The offer does not strictly conform to law or the requirements of the request;
 - 3) The offer is conditional, except that the vendor may qualify the offer for acceptance by the City on an "All or None" basis or a "Low Item" basis. An "All or None" basis offer must include all items upon which offers are invited.
- b. In the event that a vendor is or subsequently becomes delinquent in the payment of his, her or its City taxes, including state and local sales taxes, such fact shall constitute grounds for rejection of the offer, or if awarded the contract, for cancellation of the contract. However, the City reserves the right to deduct any delinquent taxes from payments that the City may owe to the delinquent vendor as a result of such contract.
- c. The City may, however, reject any offer whenever it is deemed in the best interest of the City to do so, and may reject any part of an offer unless the offer has been qualified as provided in Par. 6 (a) 3 above. The City at its sole discretion may also waive any minor informalities or irregularities in any offer, to include failure to submit sufficient documentation, failure to submit literature or similar attachments, or business affiliation information.

7. CLARIFICATION TO SPECIFICATIONS

- a. If any person contemplating submitting a quote for this contract is in doubt as to the true meaning of the specifications, other related documents, or any part thereof, he/she may submit to the City Director of Purchasing and Contract Services on or before seven calendar days prior to scheduled opening, a request for clarification. All such requests for information shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the offer, if made, will be made only by Addendum duly issued. A copy of such Addendum will be mailed or delivered to each person receiving solicitations. The City will not be responsible for any other explanation or interpretation of the proposed offer made or given prior to the award of the contract. Any objections to the specifications and requirements as set forth in this request must be filed in writing with the Director of Purchasing and Contract Services on or before seven calendar days prior to the scheduled opening.
- b. The City reserves the right to request clarification to assist in evaluating the vendor's response when the vendor response is unclear with respect to product pricing, packaging or other factors. The information provided is not intended to change the quote response in any fashion and such information must be provided within two days from request.

8. AWARD OF CONTRACT

- a. The City reserves the right to accept any item or group of items on this quote, unless the vendor qualifies his/her offer by specific limitations. Re Par. 6 (a) 3 above.
- b. A written award of acceptance (manifested by a City Ordinance) and appropriation mailed or otherwise furnished to the successful vendor results in a binding contract without further action by either party.
- c. The City of San Antonio reserves the right to utilize previous purchases as a basis for evaluation of offers when future usages are unable to be determined.
- d. Although the information furnished to Vendors specified the approximate quantities needed, based on the best available information where a contract is let on a unit price basis, payment shall be based on the actual quantities supplied. The City reserves the right to delete items, prior to the awarding of the contract, and purchase said items by other means; or after the awarding of the contract, to increase or decrease the quantities in accordance with § 252.048 of the Texas Local Government Code. No changes shall be made without written notification of the City.

9. CONTRACT TERMINATION

TERMINATION-BREACH:

- a. Should vendor fail to fulfill in a timely and proper manner, as determined solely by the Director of Purchasing and Contract Services, its obligations under this contract, or violate any of the terms of this contract, the City shall have the right to immediately terminate the contract. Notice of termination shall be provided in writing to the contractor, effective upon the date set forth in the notice. Such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor.

TERMINATION-NOTICE:

- b. The City may terminate this contract without cause. The City shall be required to give the vendor notice ten days prior to the date of termination of the contract without cause.

TERMINATION-FUNDING:

- c. City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

10. DELIVERY OF GOODS/SERVICES

- a. All materials are to be delivered F.O.B.; City of San Antonio's designated facility.
- b. Delivery dates pertaining to this request must be clearly stated in the quote form where required and include weekends and holidays. Failure to comply with this requirement may be a cause for disqualification of the offer. Unless otherwise specified, delivery at the earliest date is required. The vendor will clearly state in the offer the time required for delivery upon receipt of contract or purchase order. Proposed delivery time must be specific and such phrases "as required", "as soon as possible" or "prompt" may result in disqualification of the offer.
- c. Upon award of a contract, the vendor is obligated to deliver the goods to the destination specified in the Request for Offer or the Purchase Order and bears the risk of loss until delivery. If this Request for Offer or Purchase Order does not contain delivery instructions, Vendors shall request instructions in writing from the Director of Purchasing and Contract Services. If the delivery instructions contained in the Request for Offer allocate delivery costs and risks in a manner contrary to this section, the provisions of this Request for Offer shall prevail.
- d. When delivery is not met as provided for in the contract, the Purchasing and Contract Services Department reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the vendor, in addition to any other damages, direct or consequential, incurred by the City as a result thereof. In addition, failure of the vendor to meet the contract delivery dates will be cause for removal of the vendor from the City's list of eligible Vendors as determined by the Purchasing and Contract Services Department.

11. PERFORMANCE DEPOSIT

- a. The following provisions shall apply only when a performance deposit is specified as required in this Request for Offer.
- b. The successful vendor must furnish the City of San Antonio with a performance deposit in the amount set forth in the Request for Offer. This deposit is not to be submitted with the offer, but must be presented to the Purchasing and Contract Services Department within ten days from request.
- c. The City of San Antonio will not enter into a contract or issue a purchase order until the successful vendor has complied with the performance deposit provisions.
- d. The performance deposit shall be in the form of a performance bond (in a form acceptable to the City Attorney), cashier's check, certified check upon a state or national bank or trust company, or a check on such bank or trust company signed by a duly authorized officer thereof (checks to be drawn payable to the City of San Antonio), or a Certificate of Deposit from such bank or trust company assigned to the City of San Antonio, or an irrevocable letter of credit from a state or national bank or trust company.
- e. The performance deposit of the successful vendor shall be returned by the City upon completion of the contract and final acceptance of all items in accordance with conditions thereof.
- f. Failure of successful vendor to perform any of the services required by this contract within ten days of receipt of written demand for performance from City, or failure of vendor to correct or replace defective goods or products within ten days from receipt of written demand therefore, shall constitute a total breach of this contract and shall

cause this contract to terminate immediately upon the expiration of the ten day period. In the event of such termination, the performance deposit shall be retained by the City of San Antonio as liquidated damages, based upon mutual agreement and understanding between vendor and City at the time this Request for Offer is solicited, submitted and accepted, that the City of San Antonio is a governmental agency engaged in public projects, and that the measurement of damages, which might result from a breach of the terms and specifications herein is difficult or impossible to determine. However, the Director of Purchasing and Contract Services with the concurrence of the City Manager, may return all or part of the performance deposit to the vendor if the Director determines, in the Director's sole discretion, that the failure to perform the conditions of this contract was the result of acts or events over which the vendor had no control. The determination shall then be final and binding on all parties.

12. INDEPENDENT CONTRACTOR

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

13. REQUEST FOR INFORMATION

Any party who wishes to be provided documents relating to this procurement shall make a request in writing. Pursuant to state law, the City may assess a fee in order to recoup the cost related to providing the requested information.

14. INTELLECTUAL PROPERTY INFRINGEMENT

The successful vendor agrees to indemnify and hold Client's affiliates, public officials, officers, directors, employees, attorneys, agents and clients harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with a claim alleging that the services provided or material used in development of the website infringes the Intellectual Property rights of a third party, including but not limited to Patents, Copyrights, Trademarks, Service Mark and Trade Secrets.

15. INDEMNITY

RESPONDENT, if selected, covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to RESPONDENT's, if selected, activities under this CONTRACT, including any acts or omissions of RESPONDENT, if selected, any agent, officer, director, representative, employee, consultant or subcontractor of RESPONDENT, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this CONTRACT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS CONTRACT.

It is the EXPRESS INTENT of the parties to this CONTRACT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by RESPONDENT, if selected, to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. RESPONDENT, if selected, further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

RESPONDENT, if selected, shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or RESPONDENT, if selected, known to RESPONDENT related to or arising out of Respondent's activities under the contract, and shall see to the investigation and defense of such claim or demand at RESPONDENT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving RESPONDENT of any of its obligations under this paragraph.

16. INSURANCE

If required, specific insurance provisions will be included in specifications. An original, certified copy of an insurance certificate must be submitted within ten days from request. The successful vendor will be required to maintain, at all times during performance of the contract, the insurance detailed in specifications. Failure to provide this document may result in rejection of offer.

17. ACCEPTANCE BY CITY

The City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by vendor. The City at its option may reject all or any portion of such goods or services which do not, in City's sole discretion, comply in every respect with all terms and conditions of the contract. The City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If the City elects to accept nonconforming goods and services, the City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate the City for the nonconformity. Any acceptance by the City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

18. WARRANTY

The supplies or services furnished under this contract shall be covered by the most favorable commercial warranties given to any customer for same or similar supplies or services.

19. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders will be made in writing by the City of San Antonio Purchasing and Contract Services Department.

20. ASSIGNMENT

The successful vendor shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City of San Antonio Purchasing and Contract Services Department. Any such assignment or transfer shall not release vendor from all contractual obligations.

21. INTERLOCAL PARTICIPATION

- a. The City may, from time to time, enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance the City's purchasing power. At the City's sole discretion and option, City may inform other Entities that they may acquire items listed in this Request for Offer (hereafter "RFO"). Such acquisition(s) shall be at the prices stated herein, and shall be subject to vendor's acceptance. Entities desiring to acquire items listed in this RFO shall be listed on a rider attached hereto, if known at the time of issuance of the RFO. City may issue subsequent riders after contract award setting forth additional Entities desiring to utilize this contract. VENDOR shall sign and return any subsequently issued riders within ten calendar days of receipt.
- b. In no event shall City be considered a dealer, remarketer, agent or other representative of Vendor or Entity. Further, City shall not be considered and is not an agent, partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.
- c. Entity purchase orders shall be submitted to Vendor by the Entity.
- d. Vendor authorizes City's use of Vendor's name, trademarks and Vendor provided materials in City's presentations and promotions regarding the availability of use of this contract. The City makes no representation or guarantee as to any minimum amount being purchased by City or Entities, or whether Entity will purchase utilizing City's contract.

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

22. QUESTIONS

Questions regarding interpretation of this request should be directed to the Purchasing and Contract Services Department at (210) 207-7260 and referenced by request name and number indicated on page one. You may call Jennifer Wood, Senior Buyer, directly at (210) 207-2101 or email Jennifer.Wood@sanantonio.gov.

23. SOLE SOURCE EXEMPTION

Local Government Code chapter §252.022 allows an exemption from competitive bidding for purchases considered to be "Sole Source" or a purchase for good or service available from one vendor only. By accepting the terms and conditions of this request, vendor acknowledges and makes claim to be a sole provider of requested products or services.

Vendor must provide a statement from describing the proprietary nature of the good or service and well as a statement that no other like good or service is available. This statement shall be submitted, along with the offer, on company letterhead and be signed by an authorized representative of the company.

SPECIFICATIONS AND GENERAL REQUIREMENTS

SCOPE: Convert School Flashing Beacon System. The City of San Antonio is requesting offers to Convert the existing CPR2102 Time Switch from POCSAG to FLEX. Contractor will 1) Update the CPR2102 circuit board and firmware to current standards, 2) Replace existing POCSAG pager receivers with FLEX pager receivers, 3) Program the FLEX pager receivers with the new frequency and CAPCODE and 4) Test and return the CPR2102 Time Switch.

EXPEDITED PROCUREMENT: This Procurement is being solicited on an expedited basis. The Convert School Flashing Beacon System project must be completed and operational by **September 15, 2007.**

BACKGROUND: The City presently utilizes one POCSAG pager to address 908 school flasher locations. This technology allows us to turn on and off the school flashers. The cap code for the current POCSAG pager is programmed into the hardware which is installed in each school flasher cabinet. Due to technology advancements and limited use, our current service provider is abandoning our current POCSAG cap code. In order to change to another technology or frequency/cap code it is necessary to reprogram the hardware.

SPECIFICATIONS:

The specifications sets the minimum requirements for converting the existing Pager Programmable Time Switches used by the City of San Antonio (COSA) from POCSAG protocol paging receivers to FLEX protocol paging receivers. The conversion of the Pager Programmable Time Switches shall also include upgrades to allow the COSA to change the method of programming the alphanumeric paging to 2-way radio and/or Wi-Fi.

Upgrade System Software

The system software currently operated by the COSA for downloading programming to over 900 school zone time switches shall be upgraded to the latest version. The system software upgrade shall not require any additional data entry by COSA personnel. The pager system software shall be upgradeable to 2-way radio and/or Wi-Fi.

Upgrade Hardware

The existing pager programmable time switches shall be upgraded to the latest hardware configuration. This upgrade shall include changes to the power supply and the communications port to insure a seamless transition from alphanumeric paging to 2-way radio and/or Wi-Fi technology.

Upgrade Firmware

The firmware of the existing pager programmable time switches shall be upgraded to the latest version. The upgrade shall include the latest error checking and 2-way communications capacity.

To eliminate the possibility of receiving a corrupted program, the time switch firmware shall include an algorithm that generates a "Cyclic Redundancy Check" (CRC) error-checking character set for each program received. If the time switch CRC character set does not match the CRC character set received, the time switch shall ignore the message and continue running its program. The CRC shall work for programming received over alphanumeric paging, 2-way radio or Wi-Fi networks.

The firmware upgrade shall include features to allow the COSA to change from using alphanumeric paging to 2-way radio and/or Wi-Fi for downloading programming. The firmware upgrade shall add the capability of programming the time switch from a BLUETOOTH enabled laptop computer, Palm PDA or Windows PDA using a BLUETOOTH wireless adaptor.

Replace a Pager Receiver

The existing COSA pager programmable time switches have receivers using POCSAG protocol. POCSAG paging protocol is being discontinued by pager carriers nationwide and is to be replaced with FLEX paging protocol. The existing POCSAG receivers shall be removed and replaced with receivers using FLEX protocol. After the FLEX pager receiver has been installed, it shall be programmed to the frequency and CAPCODE of the FLEX paging service supplied by the successful bidder.

Quality Assurance

After the hardware and firmware have been upgraded and the FLEX pager receiver has been installed and programmed, the time switch shall be tested using a signal generator. The time switch shall operate successfully to signal strength of -102db.

Shipping

The COSA shall ship the time switches to the successful bidder to be upgraded. The successful bidder shall upgrade and test the time switches and return them to COSA with 7 working days from receipt of the equipment.

FUNDING OUT CLAUSE:

In the event that through no action initiated by the City of San Antonio, the City's legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no funds to do so from other sources, this Agreement may be terminated. To effect this termination, the City of San Antonio shall, 30 days prior to the beginning of the fiscal year for which funds are not appropriated, send the successful vendor written notice stating that the City of San Antonio failed to appropriate funds.

STANDARD REQUIREMENTS:

1. Prospective bidders must prove beyond any doubt to the City Purchasing and Contract Services Director that they are duly qualified, capable, bondable, etc. to fulfill and abide by the specifications herein listed.
2. When contractor cannot abide by terms and conditions in fulfilling the contract, contractor must supply service or supplies from other sources at the contract price. If contractor delays in the above, the City reserves the right to purchase on the open market and charge contractor the difference between contract price and the purchase price.
3. Insurance Requirements:

Type	Amount
*Workers Compensation Employer's Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
Commercial General (public) Liability Insurance to include coverage for the following: a. Premises operations b. Independent contractors c. Products/completed operations d. Personal Injury e. Contractual Liability	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

f. Broad form property damage, to include fire legal liability	(f) \$50,000
Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence</u>

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

Name the City and its officers, employees, volunteers, and elected representatives as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

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

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

*Any alternate workers compensation employer's liability insurance plan submitted by the vendor must be approved by the City's Risk Management Dept.

Contractor shall provide the City with 30 days advance notice, in writing, of cancellation or material change in coverage.

Workers' Compensation Insurance Coverage.

A. Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor

Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

INTELLECTUAL PROPERTY:

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

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

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

Either:

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

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

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

Respondent further agrees to:

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

b. assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and indemnify the City against any monetary damages and/or costs awarded in such suit;

Provided that:

- Respondent is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Respondent agrees to consult with the City Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City,
- that the Software or the equipment is used by the City in the form, state, or condition as delivered by Respondent or as modified without the permission of Respondent, so long as such modification is not the source of the infringement claim,
- that the liability claimed shall not have arisen out of the City's negligent act or omission, and
- that the City promptly provide Respondent with written notice within 15 days following the formal assertion of any claim with respect to which the City asserts that Respondent assumes responsibility under this section.

07-135 JW, Convert School Flashing Beacon System

PRICE SCHEDULE:

<u>ITEM</u>	<u>DESCRIPTION</u>
1	CONVERT EXISTING CPR2102 TIME SWITCHES FROM POCSAG TO FLEX

QUANTITY

950 Time Switches (Qty. may be more or less)

PRICEUnit Price per Time Switch \$ 172.00

INVOICE PRICE WILL BE DETERMINED BY NUMBER OF TIME SWITCHES x UNIT PRICE PER TIME SWITCH CONVERTED FROM POCSAG TO FLEX.

EXCEPTION TO THE "EXPEDITED PROCUREMENT" PARAGRAPH:

Consolidated Traffic Controls, Inc. understands the urgency of this project and will expedite the conversion process. In order for this project to be completed by September 15, 2007, CTC must have received all 950 CPR2102 Time Switches from the City of San Antonio prior to September 6, 2007.

CTC's responsibility is to update and convert each time switch from POCSAG pager receivers to FLEX pager receivers.

The field installation and field testing of the converted units is the responsibility of the COSA. In order for the system to be fully operational by September 15, 2007, the COSA will have to install and field test all 950 converted time switches prior to this date.

According to the 2007 - 2008 Instructional Calendar published by the San Antonio ISD, the fall semester starts on August 27, 2007. All of the time switches in the field, POCSAG and FLEX, should have their default week plan downloaded prior to the start of school. The default week plan is stored in each time switch and runs automatically each week. If a time switch has not been converted prior to USA Mobility turning off the POCSAG service on September 30, 2007, it will still operate the flashing beacons according to its stored default week plan program. This feature will keep the flashing beacons working until the next school holiday which is the week of November 19, 2007.

Invoices will be submitted bi-weekly and will include the total number of time switches that were successfully converted with a list of all serial numbers for that invoice.

IMPORTANT MAILING OR FAX INSTRUCTIONS:

MAIL TO: CITY OF SAN ANTONIO
PURCHASING AND CONTRACT SERVICES
P.O. BOX 839966
SAN ANTONIO, TX 78283-3966

PHYSICAL ADDRESS: PURCHASING AND CONTRACT SERVICES DEPARTMENT
CITY HALL ANNEX
131 W. NUEVA
SAN ANTONIO, TEXAS 78204

MARK ENVELOPE: "REQUEST FOR OFFER FOR *CONVERT SCHOOL FLASHING BEACON SYSTEM*"
REQUEST TO BE OPENED: 10:00 A.M., AUGUST 1, 2007
REQUEST NO.: 07-135 JW

OR

FAX TO: FAX COMPLETED AND SIGNED DOCUMENT TO:
JENNIFER WOOD, DIRECT FAX # 210-207-2101
OR PURCHASING OFFICE FAX # 210-207-7270

REMARKS:



CITY OF SAN ANTONIO
Request for Council Action

Agenda Item # 7
Council Meeting Date: 10/9/2008
RFCA Tracking No: R-3783

DEPARTMENT: Purchasing and General Services

DEPARTMENT HEAD: Janie B. Cantu

COUNCIL DISTRICT(S) IMPACTED:
City Wide

SUBJECT:
Ratification of Conversion of School Flashing Beacon System

SUMMARY:

This ordinance authorizes the ratification of a contract with Consolidated Traffic Controls, Inc., that provided the labor and materials for the conversion of the existing time switches from POCSAG (*Post Office Code Standardization Advisory Group*), a basic signaling pattern receiver, to FLEX, a new communications protocol receiver, for the School Flashing Beacon System for a total cost of \$156,348.00.

BACKGROUND INFORMATION:

The City utilized one POCSAG (*Post Office Code Standardization Advisory Group*) pager code format to address 909 school flasher locations throughout the City. The POCSAG code is a synchronous paging format that allows pages to be transmitted in a single-batch structure. The FLEX code (*Motorola's new protocol standard for paging*) is new technology that provides one-way communication from the provider to the pager device. This technology allows the Public Works Department to remotely turn on and off the school flashers located throughout the City. The frequency cap code, (the identification number), for the current POCSAG pager was programmed into the time switches that are installed in each school flasher cabinet. Due to technology advancements and limited use of the POCSAG code format, the City's service provider, USA Mobility, abandoned the current POCSAG frequency cap code. In order to change to another frequency cap code it was necessary to reprogram the hardware for the 909 school flasher locations. The FLEX pager technology is expected to have a life expectancy of greater than 5 years.

ISSUE:

Chapter 252.022 of the Texas Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals, before entering into a contract required and expenditure in excess of \$50,000.00. This chapter

does not apply to expenditure for procurement necessary to preserve or protect the public health or safety of the municipality's residents.

This contract was authorized by the Office of the City Manager, pending ratification of City Council in accordance with the State statutes and City procurement policy.

ALTERNATIVES:

The existing school flashing beacon system pager frequency will no longer be supported and was terminated on October 31, 2007 by the pager service provider. Two alternative solutions were researched by the Public Works Department. The first option reviewed was to change from the existing POCSAG frequency cap code to a new POCSAG frequency cap code. The new POCSAG frequency cap code was expected to have a life expectancy of less than 2 years.

The second option was to convert the existing 909 time switches to a new FLEX frequency cap code. The FLEX technology has a life expectancy of greater than 5 years.

Immediate action was necessary to re-program the school flashing beacon system in order to meet the October 31st termination deadline. The time switches are part of a pager programmable Time Switch System that was designed, built by RTC Manufacturing, Inc. Consolidated Traffic Controls, Inc. is the only authorized dealer for the state of Texas for the proprietary system products and systems manufactured by RTC Manufacturing, Inc.

The Public Works Department opted to install the new FLEX cap code technology as this would ensure a longer life expectancy.

FISCAL IMPACT:

The total value of the contract is for \$156,348.00 and will be funded utilizing Capital Project Funds approved by City Council.

RECOMMENDATION:

Staff recommends approval of the ratification of a contract with Consolidated Traffic Controls, Inc., that provided the labor and materials for the conversion from the existing time switches from POCSAG pager receivers to FLEX pager receivers for the School Flashing Beacon System.

ATTACHMENT(S):

File Description	File Name
Contract	07-135 Contract.pdf
Bid Tab	07-135 Bid Tab.pdf
Voting Results	
Ordinance/Supplemental Documents	200810090898.pdf

DEPARTMENT HEAD AUTHORIZATIONS:

Janie B. Cantu Director Purchasing and General Services

APPROVED FOR COUNCIL CONSIDERATION:

Sharon De La Garza Assistant City Manager