LOC/jlm
10/9/14
Item No. 5

AN ORDINANCE 2014-10-09-0773

ACCEPTING THE OFFER FROM FUQUAY, INC. TO COMPLETE THE REHABILITATION OF DETERIORATED CORRUGATED METAL PIPELINE LOCATED DIRECTLY UNDER PALATINE STREET FOR A TOTAL COST OF $60,038.70, FUNDED WITH THE FY 2015 STORM WATER OPERATION FUND.

* * * * *

WHEREAS, an offer was submitted by Fuquay, Inc., through the Texas Local Government Purchasing Cooperative (a.k.a. the "Buyboard"), to provide the City with rehabilitation of deteriorated corrugated metal pipeline for a total cost of $60,038.70; and

WHEREAS, this purchase meets the requirements under the terms of the Texas Local Government Purchasing Cooperative agreement adopted by the City of San Antonio by Ordinance No. 97097 on January 30, 2003; **NOW THEREFORE:**

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

SECTION 1. The offer from Fuquay, Inc. to provide the City with rehabilitation of deteriorated corrugated metal pipeline for a total cost of $60,038.70 is hereby accepted, subject to and contingent upon the deposit of all required bonds, performance deposits, insurance certificates and endorsements. The bid tabulation and contract are attached hereto and incorporated herein for all purposes as **Exhibit I**.

SECTION 2. Funding in the amount of $60,038.70 for this ordinance is available for Fund 29070000, Cost Center 2304030001 and General Ledger 5201040, as part of the Fiscal Year 2015 Budget. Payment not to exceed the budgeted amount is authorized to Fuquay, Inc. and should be encumbered with a purchase order.

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 City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 4. This ordinance is effective immediately upon passage by eight affirmative votes; otherwise it is effective on the tenth day after passage hereof.

PASSED AND APPROVED this 9th day of October, 2014.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Robert F. Greenblum, City Attorney

Agenda Item:	**5 (in consent vote: 4, 5, 6, 7, 8, 11, 12, 13, 14, 16, 17, 18, 19)**
Date:	10/09/2014
Time:	09:27:39 AM
Vote Type:	Motion to Approve
Description:	An Ordinance accepting the offer from Fuquay, Inc. to complete the rehabilitation of deteriorated corrugated metal pipeline located directly under Palatine Street for a total cost of $60,038.70, funded with the FY 2015 Storm Water Operation Fund. [Ben Gorzell, Chief Financial Officer; Troy Elliott, Director, Finance]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				
Keith Toney	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Mari Aguirre-Rodriguez	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x			x	

City of San Antonio
Bid Tabulation

EXHIBIT I

Opened: September 2, 2014

For: Palatine Rehabilitation Pipe Project

6100004601 DS

Item	Description	Quantity	BUYBOARD Fuquay, Inc. 4861 Old Hwy 81 New Braunfels, TX 78132 830-606-1882
1	Rehab 52-inch CMP (70 LF), 350 MILS Spraywall	990	
	UOM: SF		
	Unit Price:		$35.00
	Extended Price:		$34,650.00
2	Repair Floor 52-inch CMP	70	
	UOM: LF		
	Unit Price:		$140.00
	Extended Price:		$9,800.00
3	Clean 52-inch pipes	70	
	UOM: LF		
	Unit Price:		$65.00
	Extended Price:		$4,550.00
4	Joint Preparation	70	
	UOM: LF		
	Unit Price:		$115.00
	Extended Price:		$8,050.00
5	Traffic Control	1	
	UOM: LS		
	Unit Price:		$1,240.00
	Extended Price:		$1,240.00
6	Fee for Permit/Bonds	1	
	Unit Price:		$1,748.70
	Extended Price:		$1,748.70
	Delivery		10 days
	Payment Terms		Net 30
	Total:		$60,038.70
	Total Award:		**$60,038.70**

CITY OF SAN ANTONIO

PURCHASING AND GENERAL SERVICES DEPARTMENT

REQUEST FOR OFFER ("RFO") NO.: 6100004601

PALATINE REHABILITATION PIPE PROJECT

Date Issued: AUGUST 27, 2014 **ORIGINAL**

RESPONSES MUST BE RECEIVED **NO LATER** THAN: 10:00 AM, C.T. SEPTEMBER 02, 2014

Responses may be submitted by any of the following means:
Electronic submission through the Portal
Hard copy in person or by mail

Address for hard copy responses:

Physical Address:
Purchasing & General Services
Riverview Tower
111 Soledad, Suite 500, 5TH FLOOR
San Antonio, Texas 78205

Mailing Address:
Purchasing & General Services
P.O. Box 839966
San Antonio, Texas 78283-3966

For Hard Copy Submissions, Mark Envelope

"PALATINE REHABILITATION PIPE PROJECT"

Offer Due Date: 10:00 A.M.,C.T. SEPTEMBER 02, 2014

RFO No.: 6100004601

Offeror's Name and Address

Bid Bond: YES Performance Bond: NO Payment Bond: YES Other: NO

See Supplemental Terms & Conditions for information on these requirements.

Affirmative Procurement Initiative: NOT APPLICABLE DBE / ACDBE Requirements: NOT APPLICABLE

See Instructions for Offerors and Attachments sections for more information on these requirements.

Pre-Submittal Conference * NO

* If YES, the Pre-Submittal conference will be held on **N/A** at N/A at N/A.

Staff Contact Person: DEBRA STEVENS, PROCUREMENT SPECIALIST III, P.O. Box 839966, San Antonio, TX 78283-3966, Email: DEBRA.STEVENS@SANANTONIO.GOV

SBEDA Contact Information: Diane E. Nicho, 210-207-8088, Email: Diane.Nicho@SANANTONIO.GOV

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003 - INSTRUCTIONS FOR OFFERORS

Submission of Offers.

Submission of Hard Copy Offers. Submit one original offer, signed in ink, and two copies of the offer enclosed in a sealed envelope addressed to the Purchasing and General Services Department at the address and by the due date provided on the Cover Page. The name and address of offeror, the offer due date and RFO number and title shall be marked on the outside of the envelope(s). All times stated herein are Central Time. Any offer or modification received after the time and date stated on the Cover Page shall be rejected.

Submission of Electronic Offers. Submit one offer electronically by the due date provided on the Cover Page. All times stated herein are Central Time. Any offer or modification received after the time and date stated on the Cover Page shall be rejected. All forms in this solicitation which require a signature must have a signature affixed thereto, either by manually signing the document, prior to scanning it and uploading it with your submission, or affixing it electronically.

Offers sent to City by facsimile or email shall be rejected.

Modified Offers. Offers may be modified provided such modifications are received prior to the time and date set for submission of offers, and submitted in the same manner as original offers. For hard copy offers, provide a cover letter with the offer, indicating it is a modified offer and that the Original offer is being withdrawn. For electronic offers, a modified offer will automatically replace a prior offer submission. See below for information on submitting Alternate Offers.

City shall not be responsible for lost or misdirected offers or modifications.

Offerors must sign the Signature Page on hard copy offers and return the RFO document to City. For electronic offers, Offeror's electronic submission, with accompanying affirmations, constitutes a binding signature for all purposes.

Offerors are cautioned that they are responsible for the security of their log on ID and password, since unauthorized use could result in Offeror's being held liable for the submission.

Certified Vendor Registration Form. If Offeror has not completed the City's Certified Vendor Registration (CVR) Form, Offeror is required to do so prior to the due date for submission of offers. The CVR form may be accessed at http://www.sanantonio.gov/purchasing/. Offerors must identify the correct name of the entity that will be providing the goods and/or services under the contract. No nicknames, abbreviations (unless part of the legal title), shortened or short-hand names will be accepted in place of the full, true and correct legal name of the entity.

Alternate Offers. Alternate offers may be allowed at the sole discretion of City.

Hard Copy Alternate Offers. Hard copy alternate offers must be submitted in separate sealed envelopes in the same manner as submission of other offers. Alternate offers must be marked consecutively on the envelope as Alternate Offer No. 1, 2, etc. Failure to submit alternate offers in separate envelopes may result in rejection of an offer.

Electronic Alternate Offers Submitted Through the Portal. All alternate offers are recorded with original offers when submitted electronically.

Catalog Pricing. (This section applies to offers using catalog pricing, unless this is a cooperative purchase.)

The offer will be based on manufacturer's latest dated price list(s). Said price list(s) must denote the manufacturer, latest effective date and price schedule.

Offerors shall be responsible for providing one copy of the manufacturer's catalog for each manufacturer for which an offer is submitted. Offeror shall provide said catalog at the time of submission of its offer. Manufacturers' catalogs may be submitted in any of the following formats: paper copy or CD ROM for bids submitted on paper, or PDF file for offers submitted electronically.

Offerors may submit price lists other than the manufacturer's price list. Said price list(s) must denote the company name, effective date and price schedule. These price lists are subject to approval of the City Purchasing & General Services Department.

Specified items identified herein, if any, are for overall offer evaluation and represent the commonly and most used items. Net prices entered for those specified items must reflect the actual price derived from quoted price list less all discounts offered.

Restrictions on Communication.

Offerors are prohibited from communicating with: 1) elected City officials and their staff regarding the RFO or offers from the time the RFO has been released until the contract is posted as a City Council agenda item; and 2) City employees from the time the RFO 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 RFO and/or offer submitted by Offeror. Violation of this provision by Offeror and/or its agent may lead to disqualification of the offer from consideration.

Exceptions to the restrictions on communication with City employees include:

Offerors may ask verbal questions concerning this RFO at the Pre-Submittal Conference.

Offerors may submit written questions, or objections to specifications, concerning this RFO to the Staff Contact Person listed on the Cover Page on or before 2 calendar days prior to the date offers are due. Questions received after the stated deadline will not be answered. Questions submitted and the City's responses will be posted with this solicitation. All questions shall be sent by e-mail or through the portal.

Offerors may provide responses to questions asked of them by the Staff Contact Person after responses are received. The Staff Contact Person may request clarification to assist in evaluating the Offeror's response. The information provided is not intended to change the offer response in any fashion. Such additional information must be provided within two business days from City's request.

Offerors and/or their agents are encouraged to contact the Small Business Office of the International and Economic Development Department for assistance or clarification with issues specifically related to the City's Small Business Economic Development Advocacy (SBEDA) Program policy and/or completion of the SBEDA form (s), if any. The point of contact is identified on the Cover Page. Contacting the Small Business Office regarding this RFO after the due date is not permitted. If this solicitation contains Affirmative Procurement Initiatives, it will be noted on the Cover Page.

If this solicitation contains DBE/ACDBE requirements, respondents and/or their agents may contact the Aviation Department's DBE/ACDBE Liaison Officer for assistance or clarification with issues specifically related to the DBE/ACDBE policy and/or completion of the required form(s). Point of contact is Ms. Lisa Brice, who may be reached via telephone at (210) 207-3505 or through e-mail at lisa.brice@sanantonio.gov. Respondents and/or their agents may contact Ms. Brice at any time prior to the due date for submission of bids. Contacting her or her office regarding this RFO after the due date is not permitted. If this solicitation contains DBE/ACDBE requirements, it will be noted on the Cover Page.

Pre-Submittal Conference.

If a Pre-Submittal Conference is scheduled, it will be held at the time and place noted on the Cover Page. Offerors are encouraged to prepare and submit their questions in writing in advance of the Pre-Submittal Conference in order to expedite the proceedings. City's responses to questions received prior to the conference may be distributed at the Pre-Submittal Conference and posted with this solicitation. Attendance at the Pre-Submittal Conference is optional, but highly encouraged.

This meeting place is accessible to disabled persons. Call the Staff Contact Person for information on the location of the wheelchair accessible entrance, or to request an interpreter for the deaf. Interpreters for the deaf must be requested at least 48 hours prior to the meeting. For other assistance, call (210) 207-7245 Voice/TTY.

Any oral response given at the Pre-Submittal Conference that is not confirmed in writing and posted with this solicitation shall not be official or binding on City.

Changes to RFO.

Changes to this RFO made prior to the offer due date shall be made directly to the original RFO. Changes are captured by creating a replacement version each time the RFO is changed. It is Offeror's responsibility to check for

new versions until the offer due date. City will assume that all offers received are based on the final version of the RFO as it exists on the day offers are due.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in the RFO.

Preparation of Offers.

All information required by the RFO must be furnished or the offer may be deemed non-responsive and rejected. Any ambiguity in the offer as a result of omission, error, unintelligible or illegible wording shall be construed in the favor of City.

Correct Legal Name. If an Offeror is found to have incorrectly or incompletely stated the name of the entity that will provide goods and/or services, the offer may be rejected.

Line Item Offers. 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 Offeror wishes to be considered. All offers are awarded on the basis of low line item, low total line items, or in any other combination that serves the best interest of City, unless City designates this solicitation as an "all or none" offer in the Supplemental Terms & Conditions.

All or None Offers. Any offer that is considered for award on an "all or none" basis must include a price for all units or line items. In an "All or None" offer, a unit price left blank shall result in the offer being deemed nonresponsive and disqualified from consideration. An "All or None" offer is one in which City will award the entire contract to one offeror only.

Delivery Dates. Proposed delivery dates must be shown in the offer form where required and shall include weekends and holidays, unless specified otherwise in this RFO. Proposed delivery times must be specific. Phrases such as "as required", "as soon as possible" or "prompt" may result in disqualification of the offer. Special delivery instructions, if any, may be found in the Specifications / Scope of Services section of this document, or in the Purchase Order.

Tax Exemption. The City of San Antonio is exempt from payment of federal taxes, and State of Texas limited sales excise and use taxes. Offerors must not include such taxes in offer prices. An exemption certificate will be signed by City where applicable upon request by Offeror after contract award.

Samples, Demonstrations and Pre-award Testing. If requested by City, Offeror shall provide product samples, demonstrations, and/or testing of items offered to ensure compliance with specifications prior to award of the contract. Samples, demonstrations and/or testing must be provided within 7 calendar days of City's request. Failure to comply with City's request may result in rejection of an offer. All samples (including return thereof), demonstrations, and/or testing shall be at Offeror's expense. Samples will be returned upon written request. Requests for return of samples must be made in writing at the time the samples are provided. Otherwise, samples will become property of City at no cost to City. Samples that are consumed or destroyed during demonstrations or testing will not be returned.

Estimated Quantities for Annual Contracts.

Designation as an "annual" contract is found in the contract's title on the Cover Page of this document. The quantities stated are estimates only and are in no way binding upon City. Estimated quantities are used for the purpose of evaluation. City may increase or decrease quantities as needed. Where a contract is awarded on a unit price basis, payment shall be based on the actual quantities supplied.

Offerors shall thoroughly examine the drawings, specifications, schedule(s), instructions and all other contract documents.

Offerors shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment, or conditions and sites/locations for providing goods and services as required by this RFO. No plea of ignorance by Offeror will be accepted as a basis for varying the requirements of City or the compensation to Offeror.

Confidential or Proprietary Information. All offers become the property of City upon receipt and will not be returned. Any information deemed to be confidential by Offeror should be clearly noted; however, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Offeror may not be considered confidential under Texas law, or pursuant to a

Court order. Pricing may be tabulated and posted to City's website, so shall not be considered proprietary or confidential.

Costs of Preparation. Offeror shall bear any and all costs that are associated with the preparation of the Offer, attendance at the Pre-Submittal conference, if any, or during any phase of the selection process.

Rejection of Offers.

City may reject any and all offers, in whole or in part, cancel the RFO and reissue the solicitation. City may reject an offer if:

Offeror misstates or conceals any material fact in the offer; or

The offer does not strictly conform to law or the requirements of the offer;

The offer is conditional; or

Any other reason that would lead City to believe that the offer is non-responsive or Offeror is not responsible.

City, in its sole discretion, may also waive any minor informalities or irregularities in any offer, such as failure to submit sufficient offer copies, failure to submit literature or similar attachments, or business affiliation information.

Changes to Offer Form. Offers must be submitted on the forms furnished. Offers that change the format or content of City's RFO may be rejected.

Withdrawal of Offers. Offers may be withdrawn prior to the due date. Written notice of withdrawal shall be provided to the Staff Contact Person for offers submitted in hard copy. Offers submitted electronically may be withdrawn electronically.

Evaluation and Award of Contract.

City reserves the right to make an award on the basis of City's best interests. Award may also be made based on low line item, low total line items, or in any other combination that serves the best interest of City, unless City designates this solicitation as an "all or none" offer in the Supplemental Terms & Conditions.

A written award of acceptance, manifested by a City Ordinance, and a purchase order furnished to Offeror results in a binding contract without further action by either party. Offeror must have the Purchase Order before making any delivery.

City reserves the right to delete items prior to the awarding of the contract, and purchase said items by other means.

Inspection of Facilities/Equipment. Depending on the nature of the RFO, Offerors' facilities and equipment may be a determining factor in making the offer award. All Offerors may be subject to inspection of their facilities and equipment.

Prompt Payment Discount.

Provided Offeror meets the requirements stated herein, City shall take Offeror's offered prompt payment discount into consideration. The evaluation will not be based on the discount percentage alone, but rather the net price as determined by applying the discount to the offer price, either per line item or total offer amount. However, City reserves the right to reject a discount if the percentage is too low to be of value to City, all things considered. City may also reject a discount if the percentage is so high as to create an overly large disparity between the price City would pay if it is able to take advantage of the discount and the price City would pay if it were unable to pay within the discount period. City may always reject the discount and pay within the 30 day period, at City's sole option.

City will not consider discounts that provide fewer than 10 days to pay in order to receive the discount.

For example, payment terms of 2% 5, Net 30 will NOT be considered in offer evaluations or in the payment of invoices. However, payment terms of 2% 10, Net 30 will result in a two percent reduction in the offer price during offer evaluation, and City will take the 2% discount if the invoice is paid within the 10 day time period.

Prohibited Financial Interest. 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 (10) percent or more of the voting stock or shares of the business entity, or ten (10) 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.

Conflict of Interest. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or offers, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us. 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. Offeror should consult its own legal advisor with questions regarding the statute or form. Do not include this form with your sealed offer. The Purchasing Division will not deliver the form to the City Clerk for you.

004 - SPECIFICATIONS / SCOPE OF SERVICES

A. SCOPE OF WORK:

Contractor shall rehabilitate of approximately 70 linear feet (LF) of 52" diameter, heavily deteriorated corrugated metal pipe (CMP), that is part of an existing storm sewer system, which is located directly under Palatine Street adjacent to the Wal-Mart Parking Lot at Loop 410 and Palatine, in San Antonio, TX. Contractor shall clean and repair the floor of the pipe, prepare joints and apply .350 MILS Spraywall to the interior of the pipe.

The intended goal of this project is to extend the useful life of the pipe without the need for conventional pipe replacement. Therefore, Contractor shall use a state of the art trenchless rehabilitation technique that eliminates the need for open cut pipe installation.

Contractor shall warrant the labor and material for a period of one (1) year from project completion.

Contractor is responsible for all traffic control, including, but not limited to, traffic control devices, required for the safe completion of this project.

B. GENERAL REQUIREMENTS:

Contractor shall employ qualified personnel to ensure vendor performance in accordance with all outlined requirements. Contractor must have the capability of providing pipeline rehabilitation that meets all of the specifications listed herein.

Contractor shall hold all proper and current licenses and bonds. In addition, the contractor is responsible for obtaining all required permits and inspections.

The Contractor shall supply all labor, materials and equipment necessary for the proper execution and completion of the work; and shall construct in the best and most workmanlike manner complete construction and everything incidental hereto, as stated in the specifications or reasonably implied on and in accordance with contract documents.

Contractor shall provide full time supervision and properly skilled craftsman to perform the work required under this bid invitation. Unless specified to the contrary, all material used shall be new and of the best kind and grades specified and all workmanship shall be up to the best recognized standards known to the various trades.

Quoted prices shall reflect all associated costs including, but not limited to, material, associated accessories, permits, bonds, freight, storage, installation, and clean up.

Emergency Stop Order: In case of an emergency, the City may order the Contractor to stop work on the project and clear the area of all personnel and equipment. The Contractor shall comply with such order with all possible speed.

Before ordering any material or doing any work, the Contractor shall verify all required measurements and shall be responsible for the correctness of the same. No exchange or compensation will be allowed on accounts of differences.

INSTALLATION SCHEDULE: The Contractor must complete the pipeline rehabilitation within ten (10) days of award of contract, weather permitting, unless extension is granted in writing by the City's Transportation and Capital Improvements Director, or his designee. TIME IS OF THE ESSENCE IN COMPLETION OF THIS WORK. Therefore all work will be accomplished during weekdays and weekends, as well as periods of the day, when the area(s) are not in use. Work Schedule shall be coordinated by the City's Project Manager "PM" or "PM's authorized representative(s). City's PM for this Project is Francisco Newberry. **Security requirements dictate that Contractor's vehicles and equipment must be easily identified by a company logo. Failure to provide the logos will not be allowed. If Contractor does not have appropriate logo markings, Contractor will not be permitted to commence work and shall be deemed in material breach of the contract.**

C. CITY RESPONSIBILITIES:

1. The City shall provide escorted access to the work site areas.

2. The City assumes no responsibility for the Contractor's property nor offers any storage for equipment, tools or supplies.

3. The City reserves the right to reject Contractor's furnished materials and workmanship that does not conform to specifications.

4. City shall coordinate the closures of the private drive entrances for Walmart (West side of Palatine) and Conn's (East Side of Palatine) for the performance of the work, as needed.

D. CONTRACTOR RESPONSIBILITIES:

1. **Labor and Safety Equipment:** The Contractor shall be solely responsible for their vehicles, equipment, tools, supplies, materials, and other property. The Contractor shall remove such items from the work sites at the end of each work shift, as practical, and keep them in the Contractor's possession unless otherwise approved by the City. The Contractor shall observe the actual working conditions and provide any safety equipment including, but not limited to, barricades for the safety of the public and City staff will performing services.

2. **Uniform and ID Badges:** Ensure that all Contractor personnel, including any subcontractors, wear uniforms and an ID Badge at all times. At the City's request, the Contractor may be requested to conduct employee background checks, to the extent allowable by law, including, at a minimum, references and prior employment histories to the extent necessary to verify representations made by said employees relative to their employment in the preceding five years.

3. **Contractor Vehicle(s) Logo:** The Contractor's vehicle(s) must be clearly marked with the Contractor's name. Vehicle(s) must be easily identified by a company logo.

4. **Protection of Work and Property:** The Contractor shall confine his operations and work force to the space allowed by law and as allotted by the City. The Contractor at his expense shall protect and be responsible for any damage to adjacent property.

5. **Work Site - Debris Removal:** The Contractor shall furnish and pay for all means of removing all trash and debris generated by this work. No debris shall be dumped and left about the surrounding areas. Upon completion of work, the area shall be left clean and free of any and all trash, scraps, cartons, or other debris. All debris, old materials, and trash resulting from the specified work are considered property of the contractor. The Contractor shall be responsible for the disposal of all waste or hazardous materials resulting from the work. Handling, transport, and disposal of waste or hazardous materials must be done in such a manner as to insure the highest level of safety to the environment and to public health. The Contractor shall assume full responsibility and liability for and act prudently in all aspects of handling, transport and disposal of any hazardous materials, securing any licenses and permits required by law and ensuring that any disposal facility to which any scrap, waste or hazardous materials may be removed are in compliance with Federal, State and local laws and regulations.

005 - SUPPLEMENTAL TERMS & CONDITIONS

Original Contract Term.

This contract shall begin upon the effective date of the ordinance awarding the contract, or date specified in the award letter if this contract does not exceed $50,000. This contract shall terminate upon completion of all work described herein or delivery of all goods ordered, as applicable.

Cooperative Contract Provisions.

Term Consistent with Cooperative Contract. Notwithstanding anything to the contrary herein, no new orders may be placed hereunder after the expiration or termination of the underlying cooperative contract. Renewals cannot extend beyond the term of the underlying cooperative contract. Extensions cannot extend beyond the term of the underlying cooperative contract.

Contract Documents. The terms and conditions for performance and payment of compensation for this contract are set forth in the following contract documents, true and correct copies of which are attached hereto and fully incorporated herein for all purposes:

This Request for Offer, including any attachments identified herein and addenda issued by City prior to acceptance of an offer from Offeror;

Any Purchase Orders Issued hereunder by City of San Antonio ("City"); and

Exhibit I – All applicable terms and conditions of the Cooperative Purchasing Contract Number 354-10 through TEXAS BUYBOARD COOPERATIVE.

Order of Priority of Contract Documents. Should a conflict arise among the provisions of the contract documents, this RFO and any Purchase Order issued hereunder shall govern over Exhibit I, unless otherwise specifically provided herein.

This RFO includes the following: Instructions to Offerors, General Terms and Conditions, Supplemental Terms and Conditions, Product Specifications and Description of Services, Definitions, Price Schedule, any Attachments identified herein.

Warranty.

The warranty specified in Exhibit 1, if any, a minimum of 90-days product guarantee, or the manufacturer's standard commercial warranty, whichever is greater, shall apply to all products and/or services purchased under this RFO, unless otherwise specified in the Specifications/Scope of Services section of this RFO. This warranty shall provide for replacement of defective merchandise, parts, and labor, and shall include pick-up of the defective merchandise from City and delivery of the replacement(s) to the same location. The warranty shall be effective from the date of acceptance of the merchandise, or completion of the service, as applicable.

Rejection of Disclaimers of Warranties & Limitations Of Liability.

ANY TERM OR CONDITION IN EXHIBIT I, OR IN ANY DOCUMENT FURNISHED BY VENDOR, DISCLAIMING THE IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR ATTEMPTING TO LIMIT VENDOR'S LIABILITY SHALL BE OF NO FORCE OR EFFECT, AND SHALL BE STRICKEN FROM THE CONTRACT DOCUMENTS AS IF NEVER CONTAINED THEREIN.

All Or None Bid.

City of San Antonio will make award to one vendor only.

Insurance.

Prior to the commencement of any work under this Agreement, Vendor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Finance Department – Purchasing Division, which shall be clearly labeled " **Palatine Pipe Line Rehabilitation Project** " in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to City. City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by City's Finance Department – Purchasing Division. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.

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

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

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory $500,000/$500,000/$500,000
3. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage $100,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence

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

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

City of San Antonio
Attn: Finance Department – Purchasing Division
P.O. Box 839966
San Antonio, Texas 78283-3966

Vendor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

Name City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with 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 City is an additional insured shown on the policy;

Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of City; and

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

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

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

Nothing herein contained shall be construed as limiting in any way the extent to which Vendor may be held responsible for payment of damages to persons or property resulting from Vendor's or its subcontractors' performance of the work covered under this Agreement.

It is agreed that Vendor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by City for liability arising out of operations under this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of City shall be limited to insurance coverage provided.

Vendor and any subcontractors are responsible for all damage to their own equipment and/or property.

Bid Bond.

Contractor must submit a bid bond, in a form acceptable to City, made payable to the City of San Antonio, executed by a corporate surety acceptable to City who is licensed pursuant to the Texas Insurance Code and listed on the United States Department of the Treasury's Listing of Approved Sureties (Dept Circular 570) in the amount of $1,000.00. The Bid Bond shall be valid for 30 days following the deadline for submission of offers. The Bid Bond must be accompanied by an original signed and notarized Power-of-Attorney bearing the seal of the issuing surety company and reflecting that the signatory to the bond is a designated Attorney-in-Fact. If Offeror is not selected, City will not collect on the bond, but will keep the original document pursuant to the Local Government Records Act and applicable retention schedule. Any offers received without a Bid Bond will be disqualified.

For hard copy offers, the bid bond must accompany the offer. For electronic submissions, Offeror must provide the original bid bond to City's Purchasing & General Services Department prior to bid opening in accordance with the instructions for hard copy submissions.

Payment Bond.

Contractor shall provide a payment bond as security for all persons supplying labor and material in the performance of this contract. Said bond shall be executed by a corporate surety acceptable to City, licensed pursuant to the Texas Insurance Code and listed on the United States Department of Treasury's Listing of Approved Sureties (Dept. Circular 570) in the full amount of the contract price. If this is an annual contract with estimated quantities, the bond shall be in the amount of the estimated contract price for a one year period. Said bond must be in a form acceptable to City. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253 and the Texas Property Code, chapter 53. This bond must be executed and delivered to City prior to commencement of work under this contract.

Incorporation of Attachments.

Each of the attachments listed below is an essential part of this contract, which governs the rights and duties of the parties, incorporated herein by reference, and shall be interpreted in the order of priority as appears below, with this document taking priority over all attachments:

Attachment A – Price Schedule
Attachment B – SBEDA Utilization Plan
Attachment C – Prevailing Wages
Attachment D – Non-Discrimination Clause
Attachment E – State of Texas Conflict of Interest Requirement Questionnaire (CIQ Form)
Attachment F – Veteran-Owned Small Business (VOSBPP) Identification Form

Prevailing Wage Rates

Contractor shall comply with the Wage and Labor Standard Provisions stated below and prevailing wage rates attached hereto and incorporated herein for all purposes as **Attachment No. C.**

After award of contract, Contractor shall contact City's Labor Compliance office in order to obtain instructions for electronic submission of certified payrolls. This information may be provided at a pre-construction meeting, if one is arranged. Other wise, it shall be Contractor's responsibility to obtain the necessary information.

City of San Antonio
Capital Improvements Management Services Department
Labor Compliance Office
114 W. Commerce, 9th Floor
San Antonio, Texas 78205
Attention: Thomas Nixon
Phone: (210) 207-8774 / Fax: (210) 207-5859
Cell: (210) 215-7033

The Provisions of Chapter 2258 of the Texas Government Code, and the "Wage and Labor Standard Provisions" amended in City Ordinance 2008-11-20-1045, expressly are made a part of this Contract. Contractor shall forfeit, as a penalty to Owner, sixty dollars ($60.00) for each laborer, workman or mechanic employed for each calendar day, or portion thereof, in which such laborer, workman or mechanic is paid less than the stipulated prevailing wage rates for any work done under this Contract by the Contractor or any subcontractor employed on the project. The establishment of prevailing wage rates, pursuant to Chapter 2258 of the Texas Government Code, shall not be construed to relieve Contractor from its obligation under any Federal or State Law, regarding the wages to be paid to or hours worked by laborers, workmen or mechanics, insofar as applicable to the work to be performed hereunder. Contractor, in the execution of this Project, agrees it shall not discriminate in its employment practices against any person because of race, color, creed, sex, or origin. Contractor agrees it will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, creed, national origin, sex, age, handicap or political belief or affiliation. This Contract provision shall be included in its entirety in any subcontract agreement entered into by the Contractor or any Subcontractor employed on the project.

Workers' Compensation.

Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Division, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-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 City.

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.

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.

The contractor must provide a certificate of coverage to the City prior to being awarded the contract.

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 City showing that coverage has been extended.

The contractor shall obtain from each person providing services on a project, and provide to the City:

a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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.

The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

The contractor shall notify the City 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.

The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Division, 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 .

The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

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;

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;

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;

obtain from each other person with whom it contracts, and provide to the contractor:

a certificate of coverage, prior to the other person beginning work on the project; and

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;

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

notify the City 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

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.

By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the City 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 Division's section of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

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

006 - GENERAL TERMS & CONDITIONS

Electronic Offer Equals Original. If Vendor is submitting an electronic offer, City and Vendor each agree that this transaction may be conducted by electronic means, as authorized by Chapter 322, Texas Business & Commerce Code, known as the Electronic Transactions Act.

Delivery of Goods/Services.

Destination Contract. Vendor shall deliver all goods and materials F.O.B., City of San Antonio's designated facility, inside delivery, freight prepaid, to the address provided in this RFO or, if different, in the Purchase Order. Vendor shall bear the risk of loss until delivery. Freight charges will be paid only when expedited delivery is requested and approved in writing by City. Vendor shall be responsible for furnishing necessary personnel or equipment and/or making necessary arrangements to off load at City of San Antonio facility, unless otherwise noted herein.

Failure to Deliver. When delivery is not met as provided for in the contract, City may make the purchase on the open market, with any cost in excess of the contract price paid by Vendor, in addition to any other direct, indirect, consequential or incidental damages incurred by City as a result thereof. In addition, Vendor may be removed from City's list of eligible bidders.

Purchase Orders. Each time a City department wishes to place an order against this contract, it will issue Vendor a purchase order. Vendor must have the purchase order before making any delivery.

Acceptance by City. City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by Vendor. 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. City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If City elects to accept nonconforming goods and services, City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate City for the nonconformity. Any acceptance by City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.

Testing. After award of contract, City may, at its sole option, test the product delivered to ensure it meets specifications. Initial testing shall be at City's expense. However, if the product does not to meet specifications, Vendor shall reimburse City for the costs of testing. City may withhold the cost of testing from any amounts owed to Vendor under this or any other contract, or invoice Vendor for same. If invoiced, Vendor shall pay City within 30 calendar days' of the invoice.

Invoicing and Payment.

Address for Invoices. All original invoices must be sent to: City of San Antonio, Attn: Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976.

Information Required On Invoice.

All invoices must be in a form and content approved by City. City may require modification of invoices if necessary in order to satisfy City that all billing is proper and pursuant to the terms of the contract. Invoices are required to show each City Purchase Order Number. Invoices must be legible. Items billed on invoices must be specific as to applicable stock, manufacturer, catalog or part number (if any). All invoices must show unit prices for each item being billed, the quantity of items being billed and the total for each item, as well as the total for all items on the invoice. If prices are based on list prices basis, then the list prices, the percentage discount or percentage surcharge, net unit prices, extensions and net total prices must be shown. Prompt payment discounts offered shall be shown separately on the invoice.

Payment by City.

In accordance with the Texas Prompt Payment Act, City shall have not less than 30 days to pay for goods or services. Time for payment, including payment under discount terms, will be computed from the later of: (1) the date City receives conforming goods under the contract; (2) the date performance of the service under the contract is completed; or (3) the date City receives a correct and valid invoice for the goods or services. Payment is deemed to be made on the date of mailing of the check. Payment is made in US dollars only.

This provision shall not apply where there is a bona fide dispute between City and Vendor about the goods delivered or the service performed that causes the payment to be late, or where the invoice is not mailed to the address provided herein.

The payment amount due on invoices may not be manually altered by City personnel. Once disputed items are reconciled, Vendor must submit a corrected invoice or a credit memorandum for the disputed amount. City will not make partial payments on an invoice where there is a dispute.

NECESSITY OF TIMELY INVOICE / WAIVER OF PAYMENT. NOTWITHSTANDING THE FORGOING, CITY CANNOT PAY FOR ANY GOODS OR SERVICES WITHOUT AN INVOICE. VENDOR MUST INVOICE CITY NO LATER THAN 90 CALENDAR DAYS FROM THE DATE GOODS ARE DELIVERED OR SERVICES RENDERED. FAILURE TO SUBMIT AN INVOICE WITHIN SAID 90 DAY SHALL NEGATE ANY LIABILITY ON THE PART OF CITY AND CONSTITUTE A **WAIVER** BY VENDOR OF ANY AND ALL RIGHT OR CLAIMS TO COLLECT MONEYS THAT VENDOR MAY RIGHTFULLY BE OTHERWISE ENTITLED TO FOR GOODS OR SERVICES PERFORMED.

The total price for all goods and/or services is shown on the Price Schedule. No additional fees or expenses of Vendor shall be charged by Vendor nor be payable by City. The parties hereby agree that all compensable expenses of Vendor are shown on the Price Schedule. If there is a discrepancy on the Price Schedule between the unit price for an item, and the extended price, the unit price shall govern.

Amendments. Except where the terms of this contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Vendor. The Director of the Purchasing and General Services Department, or Director's designee, shall have authority to execute amendments on behalf of City without further action by the San Antonio City Council, subject to and contingent upon appropriation of funds for any increase in expenditures by City.

Termination.

Termination-Breach. Should vendor fail to fulfill in a timely and proper manner, as determined solely by the Director, its material obligations under this contract, or violate any of the material terms of this contract, City shall have the right to immediately terminate the contract in whole or in part. Notice of termination shall be provided in writing to the Vendor, effective upon the date set forth in the notice. City may, in City's sole discretion, provide an opportunity for Vendor to cure the default. If City elects to offer an opportunity to cure, City shall provide notice to Vendor specifying the matters in default and the cure period. If Vendor fails to cure the default within the cure period, City shall have the right, without further notice, to terminate the contract in whole or in part. Such termination shall not relieve Vendor of any liability to the City for damages sustained by virtue of any breach by Vendor.

Termination-Notice. City may terminate this contract, in whole or in part, without cause. City shall be required to give Vendor notice ten days prior to the date of termination of the contract without cause.

Termination-Funding. 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.

Termination by City may be effected by Director, without further action by the San Antonio City Council.

Independent Contractor. Vendor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City. 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 Vendor under this contract and that Vendor has no authority to bind City. The doctrine of respondeat superior shall not apply as between City and Vendor.

INDEMNIFICATION.

VENDOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to VENDOR'S activities under this Agreement, including any acts or omissions of VENDOR, any agent, officer, director, representative, employee, consultant or subcontractor of VENDOR, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph

shall not apply to any liability resulting from the negligence of CITY, it s officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT VENDOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. In addition, Vendor agrees to indemnify, defend, and hold City harmless from any claim involving patent infringement, trademarks, trade secrets, and copyrights on goods supplied.

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

Assignment. Except as otherwise stated herein, Vendor may not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of Director. As a condition of such consent, if such consent is granted, Vendor shall remain liable for completion of the services and provision of goods outlined in this contract in the event of default by the successor vendor, assignee, transferee or subcontractor. Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void ab initio and shall confer no rights upon any third person.

Ownership of Documents. Pursuant to Texas Local Government Code Chapter 201, any and all Records produced by Vendor pursuant to the provisions of this contract are the exclusive property of City; and no such Record shall be the subject of any copyright or proprietary claim by Vendor. The term "Record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic. Vendor understands and acknowledges that as the exclusive owner of any and all such Records, City has the right to use all such Records as City desires, without restriction.

Records Retention.

Vendor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder ("Documents"), and shall make such Documents available to City at their respective offices, at all reasonable times and as often as City may deem necessary during the contract period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

Vendor shall retain any and all Documents produced as a result of services provided hereunder for a period of four years ("Retention Period") from the date of termination of the contract. If, at the end of the Retention Period, there is litigation or other questions arising from, involving or concerning these Documents or the services provided hereunder, Vendor shall retain the records until the resolution of such litigation or other such questions. Vendor acknowledges and agrees that City shall have access to any and all such Documents at any and all times, as deemed necessary by City, during said Retention Period. City may, at its election, require Vendor to return the documents to City at Vendor's expense prior to or at the conclusion of the Retention Period. In such event, Vendor may retain a copy of the documents.

Vendor shall notify City, immediately, in the event Vendor receives any requests for information from a third party, which pertain to the Documents referenced herein. Vendor understands and agrees that City will process and handle all such requests.

Severability. If any clause or provision of this contract is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this contract shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intention of the parties hereto that in lieu of each clause or provision of this contract that is invalid, illegal, or unenforceable, there be added as a part of the contract a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

Compliance with Law. Vendor shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

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

Non-waiver of Performance. Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

Venue. Venue of any court action brought directly or indirectly by reason of this contract shall be in Bexar County, Texas. This contract is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

Non-discrimination. As a condition of entering into this agreement, Vendor represents and warrants that it will comply with City's Commercial Nondiscrimination Policy, as described under Section IILC.1 of the SBEDA Ordinance. As part of such compliance, Vendor 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 Vendor retaliate against any person for reporting instances of such discrimination. Vendor shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in City's Relevant Marketplace. Vendor 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 Vendor 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. Vendor shall include this nondiscrimination clause in all subcontracts for the performance of this contract.

Delinquent Taxes. In the event that Vendor is or subsequently becomes delinquent in the payment of taxes owed to the City of San Antonio, City reserves the right to deduct any delinquent taxes from payments that City may owe to the delinquent Vendor as a result of this contract.

Binding Contract. This contract shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

Entire Agreement. This contract, including City's final electronically posted online version, together with its authorizing ordinance, and its price schedule(s), attachments, purchase orders, and exhibits, if any, constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereof, and be duly executed by the parties, in accordance with the Amendment provision herein. **Parties agree that City's final electronically posted online version of this solicitation contains the agreed upon specifications, scope of services, and terms and conditions of this contract, and shall control in the event of a conflict with any printed version signed and submitted by Vendor.**

SBEDA Ordinance Compliance Provisions

A. Solicitation Response and Contract Requirements and Commitment

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

B. SBEDA Program

The CITY has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531 and as amended, also referred to as "SBEDA" or "the SBEDA Program"), which is posted on the City's Economic Development (EDD) 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.)

Annual Aspirational Goal – a non-mandatory annual aspirational percentage goal for overall M/WBE Prime and subcontract participation in City of San Antonio contracts is established each year for Construction, Architectural & Engineering, Professional Services, Other Services, and Goods & Supplies contract Industry Categories. This Annual Aspirational Goal is to be set (and thereafter adjusted) by the Goal Setting Committee (GSC) on an annual basis based upon relative M/WBE availability data to be collected by the City through its Centralized Vendor Registration ("CVR") system. Annual Aspirational Goals are not to be routinely applied to individual contracts, but are intended to serve as a benchmark against which to measure the overall effectiveness of the S/M/WBE Program on an annual basis, and to gauge the need for future adjustments to the mix and to the aggressiveness of remedies being applied under the Program. Percentage Goals for S/M/WBE participation may be established by the GSC on a contract-by-contract basis based upon similar data and analysis for the particular goods and services being purchased in a given contract. The M/WBE Annual Aspirational Goals for FY 2014 are:

Construction – 27%
Architecture and Engineering – 22%
Professional Services – 18%
Other Services – 20%
Goods and Supplies - 9%

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.

Centralized Vendor Registration System (CVR) – a mandatory electronic system wherein the City requires all prospective Respondents and Subcontractors that are ready, willing and able to sell goods or services to the City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from the City. The CVR-assigned identifiers are also used

by the Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE firms by Industry or commodity codes, and for establishing Annual Aspirational Goals and Contract-by-Contract Subcontracting Goals.

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 <u>not</u> 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.

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."

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

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

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

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

> African-Americans: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indian.
>
> Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.
>
> Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
>
> Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

Originating Department – 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.

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

San Antonio Metropolitan Statistical Area (SAMSA) – also known as the Relevant Marketplace, the geographic market area from which 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.

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

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

Small Business Office (SBO) – the office within the Economic Development Department (EDD) of 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 EDD 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.

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

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor or CONTRACTOR in furtherance of the Prime Contractor's performance under a contract or purchase order with 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 EDD Director or designee.

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

D. SBEDA Program Compliance – General Provisions

As CONTRACTOR acknowledges that the terms of 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. CONTRACTOR shall require new Subcontractors or Suppliers, prior to submission of CONTRACTOR's Change to Utilization Plan form, to register in the Centralized Vendor Registration system, before seeking SBO approval.

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.

8. CONTRACTOR acknowledges that the CITY will not execute a contract or issue a Notice to Proceed for this project until the CONTRACTOR and each of its Subcontractors for this project have registered and/or maintained active status in the CITY's Centralized Vendor Registration System, and CONTRACTOR has represented to CITY which primary commodity codes each registered Subcontractor will be performing under for this contract.

E. SBEDA Program Compliance – Affirmative Procurement Initiatives

The CITY has applied the following contract-specific Affirmative Procurement Initiative to this contract:

None. There are no Affirmative Procurement Initiatives being applied to this contract.

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.

H. Violations, Sanctions and Penalties

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

1. Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;

2. Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;

3. Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;

4. Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and

5. Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

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

1. Suspension of contract;

2. Withholding of funds;

3. Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;

4. Refusal to accept a response or proposal; and

5. Disqualification of CONTRACTOR or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

007 - SIGNATURE PAGE

By submitting an offer, whether electronically or by paper, Offeror represents that:

(s)he is authorized to bind Offeror to fully comply with the terms and conditions of City's Request for Offer for the prices stated therein;

(s)he has read the entire document, including the final version issued by City, and agreed to the terms therein;

Offeror is in good standing with the Texas State Comptroller's Office; and

to the best of his/her knowledge, all information is true and correct.

If submitting your offer by paper, complete the following and sign on the signature line below. Failure to sign and submit this Signature Page will result in rejection of your offer.

Offeror Information
Please Print or Type

Vendor ID No.	1014560
Signer's Name	DAVID M. KALLFELZ
Name of Business	FUQUAY, INC.
Street Address	4861 OLD Hwy 81
City, State, Zip Code	NEW BRAUNFELS, TX 78132
Email Address	DAVIDK@FUQUAY.COM
Telephone No.	830-606-1882
Fax No.	830-606-1885
City's Solicitation No.	6100004601

David M. Kallfelz
Signature of Person Authorized to Sign Offer

008 - STANDARD DEFINITIONS

Whenever a term defined by the Uniform Commercial Code ("UCC"), as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

All-or-None Offer - an RFO in which City will award the entire contract to one offeror only.

Alternate Offer - two or more offers with substantive variations in the item or service offered from the same offeror in response to a solicitation.

Assignment - a transfer of claims, rights or interests in goods, services or property.

Bid Bond - security to ensure that Offeror (a) will not withdraw the offer within the period specified for acceptance, and (b) will furnish any required bonds and any necessary insurance within the time specified in the solicitation.

City - the City of San Antonio, a Texas home-rule municipal corporation.

Contractor - the offeror whose offer is accepted by City and is, therefore, the person, firm or entity providing goods or services to City under a contract.

Director – the Director of City's Purchasing & General Services Department, or Director's designee.

Line Item - a listing of items in an offer for which an offeror is expected to provide separate pricing.

Offer - a complete, signed response to an RFO that, if accepted, would bind Offeror to perform the resultant contract.

Offeror - a person, firm or entity that submits an offer in response to a solicitation. The offeror whose offer is accepted by City may also be referred to herein as Contractor, Vendor or Supplier.

Payment Bond - a particular form of security provided by the contractor to protect City against loss due to the contractor's failure to pay suppliers and subcontractors.

Performance Bond - a particular form of security provided by the contractor to protect City against loss due to the contractor's inability or unwillingness to complete the contract as agreed.

Performance Deposit - security provided by the contractor to protect City against loss due to the contractor's inability or unwillingness to complete the contract as agreed.

Pre-Submittal Conference - a meeting conducted by City, held in order to allow offerors to ask questions about the proposed contract and particularly, the contract specifications.

Purchase Order - a validly issued order placed by an authorized City department for the purchase of goods or services, written on City's standard purchase order form, and which is the vendor's authority to deliver to and invoice City for the goods or services specified in an RFO for the price stated in vendor's offer.

Specifications - a description of what City requires and what Offeror must offer; a description of the physical or functional characteristics of a product or material, or the nature of a service or construction item.

Subcontractor - a person, firm or entity providing goods or services to a vendor to be used in the performance of the vendor's obligations under the contract with City.

Supplier - the offeror whose offer is accepted by City and is, therefore, the person, firm or entity providing goods or services to City under a contract.

Vendor - the offeror whose offer is accepted by City and is, therefore, the person, firm or entity providing goods or services to City under a contract.

009 - ATTACHMENTS

ATTACHMENT A

PRICE SCHEDULE

CURED-IN-PLACE FOR PIPELINE REHABILITATION (CIPP)
BY BUYBOARD COOPERATIVE AGREEMENT NO. 354-10

Item	Description	Unit of Measure	Qty	Unit Price	Extended Price
0001	Rehab 52-inch CMP (70 LF), 350 MILS Spraywall	SF	990	$ 35.00	$ 34,650.00
0002	Repair Floor 52-inch CMP	LF	70	$ 140.00	$ 9,800.00
0003	Clean 52-inch pipes	LF	70	$ 65.00	$ 4,550.00
0004	Joint Preparation	LF	70	$ 115.00	$ 8,050.00
0005	Traffic Control	LS	1	$ 1,240.00	$ 1,240.00
0006	Fee for Permit/Bonds		1	$ 1,748.70	$ 1,748.70

Total Price: $ 60,038.70

Prompt Payment Discount 0 %_____days. (If no discount is offered, Net 30 will apply)

Quoted prices shall reflect all associated costs including, but not limited to material associated accessories, permits, bonds, freight, storage, installation, and clean up.

FUQUAY, INC.

Certified WBE/DBE
P. O. Box 10327 Austin, Texas 78766 Phone (830) 606-1882 Fax (830) 606-1885

BuyBoard® Cooperative Purchasing

DATE: MARCH 25, 2014
PROJECT: PALATINE 52-INCH REHABILITATION

Cured In Place Pipe & Pipeline Rehabilitation & Underground Asset Renewal #354-10

SECTION II: UV CURED PRODUCT		AWARDED BUYBOARD PRICING			DISCOUNTED		
	Unit	Unit Price	Units	Total	Unit Price	Units	Total
Section B - Structure (manhole) Rehabilitation and Corrosion Protection							
474 Structure Base Repair (any size)	SQFT	$35.00	990	$34,650.00	$30.00	990	$29,700.00
481 Manhole Rehabilitation - Polyurethane (PCM) only -- 250 mils thickness	SQFT	$20.00	990	$19,800.00	$20.00	990	$19,800.00
Section D - Clean/TV & Evaluation for Gravity Pipelines							
548 54" Clean and TV storm sewer	LF	$35.00	70	$2,450.00	$30.00	70	$2,100.00
549 42" or Larger Post TV Inspection After Rehabilitation	LF	$6.00	70	$420.00	$6.00	70	$420.00
554 Above Ground Physical Inspection	LF	$2.00	70	$140.00	$2.00	70	$140.00
Section F - Additional Associated Items							
594 Traffic control	Day	$750.00	5	$3,750.00	$750.00	5	$3,750.00
Section Q - Sealing of RCP or CMP Storm Sewer Joints							
386 Joint Seal - 54" Storm Sewer RCP or CMP Pipe	EA	$700.00	3	$2,100.00	$595.00	4	$2,380.00
				$63,310.00			$58,290.00

PROJECT NOTES:

1) PRIVATE DRIVE ENTRANCES FOR WALMART (WEST SIDE OF PALATINE) AND CONN'S (EAST SIDE OF PALATINE) TO BE CLOSED FOR THE PERFORMANCE OF THE WORK.
2) COSA TO COORDINATE ENTRANCE CLOSURES WITH CONN'S AND WALMART.
3) COSA TO PROCURE AND SUPPLY FUQUAY, INC. WITH ANY PERMITS REQUIRED FOR THE PROJECT.
4) PROJECT DURATION IS APPROXIMATELY 5 WORKING DAYS.

BONDS: (If Required) $1,748.00

$60,038.00

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE WORK TO BE PERFORMED IN ACCORDANCE WITH THE DRAWING AND SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A SUBSTANTIAL WORKMANLIKE MANNER. ANY ALTERATION OR DEVIATION FROM SPECIFICATIONS AND DRAWINGS INVOLVING EXTRA COSTS WILL BE EXECUTED ONLY UPON WRITTEN ORDERS AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE QUOTATION. WORKER'S COMPENSATION AND PUBLIC LIABILITY INSURANCE ON ABOVE WORK TO BE FURNISHED BY FUQUAY, INC. **THERE MAY BE AN ADDITIONAL CHARGE FOR PROVIDING A WAIVER OF SUBROGATION AND/OR BEING LISTED AS AN ADDITIONAL INSURED ON FUQUAY'S INSURANCE. THE CHARGE SHALL BE EQUAL TO THE AMOUNT CHARGED TO FUQUAY FOR SAID SERVICE.**

EXCLUSIONS:

- SALES TAX
- PERMITS, BURDENS, FEES
- WASTE HAUL-OFF
- SURVEYING
- SITE CLEARING
- PROVIDING AND/OR PERFORMING ANY TESTING
- BARRICADES, SIGNS, TRAFFIC HANDLING
- INFILTRATION REPAIR
- DEWATERING
- ALL BYPASS PUMPING AND PIPE PLUGGING
- BOND, SALES TAX, AND OCP

TERMS:

PAYMENT FOR SERVICES SHALL BE DUE AND PAYABLE WITHIN THIRTY DAYS OF THE DATE/MONTH THE WORK IS PERFORMED. THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN THIRTY DAYS.

RESPECTFULLY SUBMITTED,

FUQUAY, INC.

ACCEPTED BY: _____

COMPANY: _____

NAME: _____

TITLE: _____

DATE: _____

ATTACHMENT B

SUBCONTRACTOR/SUPPLIER UTILIZATION PLAN

(FORM TO BE ATTACHED HERE)

CITY OF SAN ANTONIO
ECONOMIC DEVELOPMENT
DEPARTMENT

CITY OF SAN ANTONIO
SUBCONTRACTOR/SUPPLIER UTILIZATION PLAN

SOLICITATION NAME: ***Palatine Pipe Rehabilitation Project***

RESPONDENT NAME: FUQUAY, INC.

SOLICITATION API: ***None***

API REQUIREMENTS: ***None***

Enter Respondent's (Prime) proposed contract participation level. Leave blank for revenue generating contracts.

	PARTICIPATION DOLLAR AMOUNT	% LEVEL OF PARTICIPATION	CERTIFICATION TYPE AND NUMBER	TYPE OF WORK TO BE PERFORMED (BY NIGP CODE)
Prime: FUQUAY, INC. SAePS Vendor #: 1014560	$ 58,250.00	97%	SBE WBE SCTRCA # [redacted]	96863, 96873, 98814, 91226, 91244, 91340, 91345, 91347, 91356, 91360, 91389

List ALL subcontractors/suppliers that will be utilized for the entire contract period, excluding possible extensions, renewals and/or alternates. Use additional pages if necessary.

Sub: SAePS Vendor #:	$	%	SCTRCA #:	
Sub: SAePS Vendor #:	$	%	SCTRCA #:	
Sub: SAePS Vendor #:	$	%	SCTRCA #:	
Sub: SAePS Vendor #:	$	%	SCTRCA #:	

***** Prime respondent and all subcontractors/suppliers must be registered in the City of San Antonio Electronic Procurement System (SAePS). To learn more about how to register, please call (210) 207-0118 or visit http://www.sanantonio.gov/purchasing/saeps.aspx.***

Sub:	$	%		
SAePS Vendor #:			SCTRCA #:	
Sub:	$	%		
SAePS Vendor #:			SCTRCA #:	
Sub:	$	%		
SAePS Vendor #:			SCTRCA #:	
Sub:	$	%		
SAePS Vendor #:			SCTRCA #:	
Sub:	$	%		
SAePS Vendor #:			SCTRCA #:	
A.Total Prime Participation:	$	%	*A. Total base bid amount to be kept by prime.*	
B.Total Sub Participation:	$	%	*B. Total amount prime will pay to certified and non-certified subcontractors/suppliers*	
C.Total Certified Sub Participation:	$	%	*C. Total amount prime will pay to certified subcontractors/suppliers per the eligibility requirements stated above*	
D.Total Prime & Sub Participation*:	$	%	*D. Total prime and subcontractor(s)/supplier(s) participation must equal your base bid amount (A+B)*	

If a business is not certified, please call the Small Business Program Office at (210) 207-3900 for information and details on how subcontractors and suppliers may obtain certification.

I HEREBY AFFIRM THAT I POSSESS DOCUMENTATION FROM ALL PROPOSED SUBCONTRACTORS/SUPPLIERS CONFIRMING THEIR INTENT TO PERFORM THE SCOPE OF WORK FOR THE PRICE INDICATED ABOVE. I FURTHER AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

Print Name: DAVID M. KALLFELZ **Sign:** **Title:** GENERAL MANAGER

Date: 9/2/14

****

FOR CITY USE

Action Taken: **Approved**_____ **Denied**_____ _____

ASSISTANT DIRECTOR
ECONOMIC DEVELOPMENT DEPARTMENT

Version 09/04/13

South Central Texas Regional Certification Agency

Your unified certification source
www.sctrca.org

May 28, 2013

Corrie Fuquay
Fuquay, Inc.
7703 Orangewood Circle
Austin, TX 78757

Dear Corrie Fuquay:

We are pleased to inform you that your application for certification in our Small, Minority, Woman, African American, Veteran, and Disabled Individual Business Enterprise (S/M/W/AA/V/DI) Program has been approved. Your firm met the requirements of SCTRCA Standards and is currently certified as a:

***SBE WBE**

Certification Number: **213059101**
Certification Renewal: **May 15, 2015**
Certification Expiration: **May 31, 2015**

Providing the following products or services:
NAICS-237110: UTILITY LINE (I.E., SEWER, WATER), CONSTRUCTION
NAICS-237310: HIGHWAY, STREET, AND BRIDGE CONSTRUCTION

On the two year anniversary date of your certification, you are required to provide a renewal application affirming that no changes have occured affecting your certification status. The SCTRCA will send you a Certification Renewal reminder **sixty (60) days** prior to your expiration date. The SCTRCA will no longer include a certificate upon certification renewals. **Your expiration date is May 31, 2015.**

Please notify this office within **thirty (30) days** of any changes affecting the size, ownership, control requirements, or any material change in the information provided in the submission of the certification application. Thank you in advance.

Sincerely,

Blaine R. Mitchell
Executive Director

ATTACHMENT C

PREVAILING WAGES

General Decision Number: TX140016 01/03/2014 TX16

Superseded General Decision Number: TX20130016

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClennon and Williamson Counties) and HIGHWAY Construction Projects

Modification Number	Publication Date
0	01/03/2014

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	$ 12.56	
ELECTRICIAN.....	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	$ 12.94	
Structures.....	$ 12.87	
LABORER		
Asphalt Raker.....	$ 12.12	
Flagger.....	$ 9.45	
Laborer, Common.....	$ 10.50	
Laborer, Utility.....	$ 12.27	
Pipelayer.....	$ 12.79	
Work Zone Barricade Servicer.....	$ 11.85	
PAINTER (Structures).....	$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor.....	$ 12.69	
Asphalt Distributor.....	$ 15.55	
Asphalt Paving Machine.....	$ 14.36	
Boom Truck.....	$ 18.36	
Broom or Sweeper.....	$ 11.04	
Concrete Pavement Finishing Machine.....	$ 15.48	
Crane, Hydraulic 80 tons or less.....	$ 18.36	

	Rates	Fringes
Crane, Lattice Boom 80 tons or less.....	$ 15.87	
Crane, Lattice Boom over 80 tons.....	$ 19.38	
Crawler Tractor.....	$ 15.67	
Directional Drilling Locator.....	$ 11.67	
Directional Drilling Operator.....	$ 17.24	
Excavator 50,000 lbs or Less.....	$ 12.88	
Excavator over 50,000 lbs...	$ 17.71	
Foundation Drill, Truck Mounted.....	$ 16.93	
Front End Loader, 3 CY or Less.....	$ 13.04	
Front End Loader, Over 3 CY.	$ 13.21	
Loader/Backhoe.....	$ 14.12	
Mechanic.....	$ 17.10	
Milling Machine.....	$ 14.18	
Motor Grader, Fine Grade....	$ 18.51	
Motor Grader, Rough.....	$ 14.63	
Pavement Marking Machine....	$ 19.17	
Reclaimer/Pulverizer.....	$ 12.88	
Roller, Asphalt.....	$ 12.78	
Roller, Other.....	$ 10.50	
Scraper.....	$ 12.27	
Spreader Box.....	$ 14.04	
Trenching Machine, Heavy....	$ 18.48	
Servicer.....	$ 14.51	
Steel Worker Reinforcing.....	$ 14.00	
Structural.....	$ 19.29	
TRAFFIC SIGNAL INSTALLER		
Traffic Signal/Light Pole Worker.....	$ 16.00	
TRUCK DRIVER		
Lowboy-Float.....	$ 15.66	
Off Road Hauler.....	$ 11.88	
Single Axle.....	$ 11.79	
Single or Tandem Axle Dump Truck.....	$ 11.68	
Tandem Axle Tractor w/Semi Trailer.....	$ 12.81	
WELDER.....	$ 15.97	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:
* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial Contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

ATTACHMENT D

Non-Discrimination. **As a party to this contract, Vendor understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.**

ATTACHMENT E

(Copy of completed forms to be attached here)

SUPPLEMENTAL INFORMATION RELATED TO THE STATE OF TEXAS CONFLICT OF INTEREST REQUIREMENT

The Instructions to Bidders section of this document provides information pertaining to a requirement to file the State of Texas Conflict of Interest Questionnaire (Form CIQ) required by Chapter 176 of the Texas Local Government Code. The Form CIQ is available from the Texas Ethics Commission at:

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

In addition, please complete the City's Addendum to the Form CIQ (Form CIQ-A) and submit it with the Form CIQ to the Office of the City Clerk. The City's Addendum to the Form CIQ can be found at:

http://www.sanantonio.gov/atty/ethics/pdf/OCC-CIQ-Addendum.pdf

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

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

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

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

OFFICE USE ONLY

Date Received

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

NOT APPLICABLE

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 **Name of local government officer with whom filer has employment or business relationship.**

_____

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

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

☐ Yes ☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☐ No

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

4

_____ _____

Signature of person doing business with the governmental entity Date

Adopted 06/29/2007

City of San Antonio

Office of the City Clerk

CONFLICT OF INTEREST QUESTIONNAIRE ADDENDUM

FORM CIQ-A

For vendor or other person doing business with local governmental entity

Completed Conflict of Interest Questionnaires and Conflict of Interest Questionnaire Addenda are to be submitted by all individuals and/or entities who seek to do business with the City of San Antonio. Completed Forms shall be filed with the City Clerk no later than the 7th business day after the date the person/entity: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposal or bid, correspondence, or another writing related to a potential agreement with the City.

A CIQ and CIQ Addendum are required to be filed for EACH solicitation submitted, and are required to be submitted together.

1 **Name of person who has or is seeking to have a business relationship with the City of San Antonio.**

NOT APPLICABLE

2 **Name of Company that has or is seeking to have a business relationship with the City of San Antonio.**

2a **Business Contact information for Company listed above.**

Business Address:

Phone:

Email:

3 **Bid Name or Description of Service**

4 **Printed name of person doing business with the City of San Antonio (same as denoted on Box 4 of Form CIQ).**

Completed Conflict of Interest Questionnaires and Addenda should be mailed or hand-delivered separately from the solicitation (bid) to one of the following addresses:

Mailing Address: **Office of the City Clerk**
P.O.Box 839966
San Antonio, TX 78283-3966

Physical Address: **Office of the City Clerk**
City Hall, 2nd Floor
100 Military Plaza
San Antonio, TX 78205

Print Form

ATTACHMENT F

Veteran-Owned Small Business (VOSBPP) Preference Program Ordinance

(VOSBPP IDENTIFICATION FORM TO BE ATTACHED HERE)

City of San Antonio

Veteran-Owned Small Business Program Tracking Form

Authority. The City of San Antonio Veteran-Owned Small Business Preference Program Ordinance 2013-12-05-0864 adopted a veteran-owned small business preference program for specific contracting categories for solicitations issued after January 15, 2014.

Tracking. This solicitation is not eligible for a preference based on status as a veteran-owned small business (VOSB). Nevertheless, in order to determine whether the program can be expanded at a later date, the City tracks VOSB participation at both prime contract and subcontract levels.

Certification. The City relies on inclusion in the database of veteran-owned small businesses (VOSB) maintained by the U.S. Small Business Administration to verify VOSB status; however, veteran status may also be confirmed by certification by another public or private entity that uses similar certification procedures.

Definitions. The program uses the federal definitions of veteran and veteran-owned small business found in 38 CFR Part 74.

- The term "veteran" means a person who served on active duty with the U.S. Army, Air Force, Navy, Marine Corps, Coast Guard, for any length of time and at any place and who was discharged or released under conditions other than dishonorable. Reservists or members of the National Guard called to federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status.

- A veteran-owned small business is a business that is not less than 51 percent owned by one or more veterans, or in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; the management and daily business operations of which are controlled by one or more veterans and qualifies as "small" for Federal business size stand purposes.

The program does not distinguish between a veteran and a service-disabled veteran-owned business and is not limited geographically.

COMPLETE THE FOLLOWING FORM AND SUBMIT IT WITH YOUR BID/PROPOSAL.

City of San Antonio

Veteran-Owned Small Business Program Tracking Form

SOLICITATION NAME/NUMBER: 6100004355

Name of Respondent:	FUQUAY, INC.	
Physical Address:	4861 OLD Hwy 81	
City, State, Zip Code:	NEW BRAUNFELS, TX 78132	
Phone Number:	830-606-1882	
Email Address:	DAVIDK@FUQUAY.COM	
Is Respondent certified as a VOSB with the U.S. Small Business Administration? (circle one)	Yes	No
If yes, provide the SBA Certification #		
If not certified by the SBA, is Respondent certified as a VOSB by another public or private entity that uses similar certification procedures? (circle one)	Yes	No
If yes, provide the name of the entity who has certified Respondent as a VOSB. Include any identifying certification numbers.		
Participation Dollar Amount		

Is Respondent subcontracting with a business that is certified as a VOSB? (circle one)	Yes	No
Name of **SUBCONTRACTOR** Veteran-Owned Small Business:		
Physical Address:		
City, State, Zip Code:		
Phone Number:		
Email Address:		
Is **SUBCONTRACTOR** certified as a VOSB with the U.S. Small Business Administration? (circle one)	Yes	No
If yes, provide the SBA Certification #		
If not certified by the SBA, is **SUBCONTRACTOR** certified as a VOSB by another public or private entity that uses similar certification procedures? (circle one)	Yes	No
If yes, provide the name of the entity who has certified **SUBCONTRACTOR** as a VOSB. Include any identifying certification numbers.		
Participation Dollar Amount		

City of San Antonio

Veteran-Owned Small Business Program Tracking Form

ACKNOWLEDGEMENT

THE STATE OF TEXAS

I certify that my responses and the information provided on Veteran-Owned Small Business Program Tracking Form are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations on this form, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me on this Veteran-Owned Small Business Program Tracking Form may be investigated and I hereby give my full permission for any such investigation. I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my offer to be rejected.

BIDDER/RESPONDENT'S FULL NAME:

DAVID M. KALLFELZ

(Print Name) Authorized Representative of Bidder/Respondent

David M. Kallfelz

(Signature) Authorized Representative of Bidder/Respondent

GENERAL MANAGER

Title

9/2/14

Date

This Veteran-Owned Small Business Program Tracking Form must be submitted with the Bidder/Respondent's bid/proposal.