CITY OF SAN ANTONIO
HPARC AND TRANSPORTATION & CAPITAL IMPROVEMENTS

REQUEST FOR QUALIFICATIONS
("RFQ")
CONSTRUCTION MANAGER AT RISK SERVICES FOR THE
Early Works and Utilities Infrastructure Hemisfair Civic Park
(RFQ# TCI08242016-AKY)

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

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

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

RFQ ISSUE DATE:
August 24, 2016

SUBMITTAL DEADLINE:
Friday, September 23, 2016 at 3:00 P.M., LOCAL TIME

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REQUIRED FORMS, INSTRUCTIONS AND EXHIBITS

Submittal Cover/Signature Sheet	FORM 1
Submittal Checklist and Table of Contents	FORM 2
Discretionary Contracts Disclosure Form and Instructions	FORM 3
Litigation Disclosure Form	FORM 4
Subcontractor/Supplier Utilization Commitment Form	FORM 5
General Conditions for City of San Antonio Building Contracts	EXHIBIT A
City of San Antonio Construction Manager at Risk Contract Template	EXHIBIT B
Wage and Hour Building Decision	EXHIBIT C

I. BACKGROUND

The City of San Antonio (hereafter referred to as "City"), requests a Statement of Qualifications (hereafter referred to as "SOQ") from qualified Construction Managers (hereafter referred to as "Respondents") interested in providing pre-construction and construction phase services through a Construction Manager at Risk (hereafter referred to as "CMR") delivery method for the construction of Early Works and Utilities Package for Civic Park (hereafter referred to as "the Project") at San Antonio Hemisfair. The selected Respondent shall be required to demonstrate the ability and resources necessary to perform the scope of services requested. City is seeking qualified firms which have experience in managing construction projects of similar size, scope and complexity and which effectively can manage the challenges of a downtown construction project. The approximate ten (10) acre site will include future Public/Private Partnership developments on the edges of the park that will function seamlessly with Civic Park at the center, comprised of approximately seven (7) of the ten total acres. Civic Park will be the second round of development at Hemisfair and will act as the centerpiece for supporting the goal of establishing a world-class urban park surrounded by a vibrant mixed-use neighborhood adding real value to all citizens of San Antonio. The Project shall be in accordance with the City's Hemisfair Park Area Redevelopment Corporation (hereafter referred to as "HPARC") sustainability, historic design and development guidelines and the Hemisfair Public Art Master Plan.

Purpose/Intent

The selected Respondent shall work with the Project's Design Consultant in the preparation of phasing documents to facilitate the effective construction of the scope of services necessary to implement all utilities and early works for Civic Park. The Project's phasing plan is necessary to maintain the Project schedule and efficiently manage site access logistics.

During the Project's construction phase, all work shall be coordinated with the Transportation & Capital Improvements Department (hereafter referred to as "TCI"), HPARC, the Henry B. Gonzalez Convention Center and other entities involved with the approval of the work and the Project's delivery. Project construction shall be completed for occupancy on or before January 2018.

Minimum Qualifications

Respondent shall have demonstrated experience in the following CMR processes:

- CMR Preconstruction Services
- CMR Construction Services
- CMR Contract Sum guaranteed maximum price pricing experience
- Constructability Review experience
- Experience with fast track construction projects on a downtown site
- Demonstrated experience in coordinating work with local utility providers
- Demonstrated experience in building similar projects of this size, type and complexity

Preferred Qualifications

It is preferred but not required the selected Respondent demonstrate:

- An extensive knowledge of and experience related to the construction of facilities and underground utilities and structures of similar size, type and complexity as this Project.
- Experience in civil works projects with high quality architectural concrete finishes.
- Local Experience with CPS and SAWS in the installation of major utility service installation

II. SCOPE OF WORK

The scope of work includes pre-construction and construction services for The Early Works and Utilities Package of Civic Park, located at the corner of South Alamo Street and East Market Street.

The selected Respondent shall enter into a CMR contract with City for construction of the early-works package of Civic Park, consisting of the installation of utilities and other sub-grade improvements and structures, grading and landscaping and could include hardscape items with architectural concrete and stone finishes. This early-works package must be completed in time for scheduled City-wide events in early 2018. Prior to construction, the selected Respondent shall assume the risk of delivering the Project pursuant to a Guaranteed Maximum Price (hereafter referred to as "GMP") for the scope of the early works package. Prior to construction and engaging at the mid-design document (hereafter referred to as "DD") stage, the selected Respondent shall provide preconstruction services in a collaborative effort, working with the design team to develop construction cost estimates with increasing level of detail for each remaining design phase. At or near the completion of detailed design documents, upon City's request, the selected Respondent shall prepare and submit a GMP to City for approval.

The selected Respondent shall be responsible for managing the construction means and methods, quality control, construction site safety and the management of all other aspects related to the construction of this Project. The selected Respondent may self-perform work for which it is qualified, contingent upon it submitting a bid in conformance with Section 2269.255 of the State of Texas Government Code and upon approval by City.

Preconstruction Phase:

The selected Respondent shall work cooperatively with City and the design team throughout the preconstruction stage of the Project. The selected Respondent shall report to City as well as assist in remedying all discrepancies, errors and omissions in the Design Documents during the Preconstruction Phase.

Preconstruction phase services by the selected Respondent shall include, but are not limited to:

- Constructability reviews. (Constructability, as herein used, refers to the optimum use of construction knowledge and experience in planning, design, procurement and field operations to achieve overall Project objectives);

- Compliance reviews;
- Collaborative efforts with the design team to reconcile cost or design concerns;
- Budgeting services;
- Detailed cost estimating and value engineering analysis, at completion of DD's and during construction document stages (as defined in the CMR contract);
- Construction phase scheduling:
  - Detailed Project scheduling;
  - Develop a detailed critical path method (hereafter referred to as "CPM") schedule, identifying all design activities, permits and other activities required to be completed before construction activities can begin, along with developing a preliminary construction schedule. Primavera shall be used for developing all Project scheduling;
  - Identify and schedule for early work items;
  - Project construction phasing;
  - Presentations to stakeholders, as needed and determined by City;
- Preconstruction planning throughout the preconstruction stage and participation in the prequalification and qualification of each of the CMR's subcontractors, as defined by law;
- Submittal of a proposed GMP, anticipated at or near the completion of the Project's construction documents (City reserves the right to accept a GMP at any point in the development of the Project design);
- Lead and manage the subcontractor prequalification and bidding process.
- Bidding, award and management of all construction-related contracts in compliance with City's solicitation requirements, including its Small Business Economic Development Advocacy Policy.

When the drawings and specifications are at a stage of completion specified in the CMR Agreement, such partially completed documents (hereafter referred to as the "Design Development Documents") shall be provided to the selected Respondent, together with the design team's detailed listing of any material incomplete design elements, and the design team's statement of intended scope, with respect to such incomplete elements. If requested by City at this stage of the process, the selected Respondent shall submit to City and the design team, its proposed GMP and its qualifications and assumptions, based upon the Design Development Documents. The selected Respondent, City and the design team (along with any City-selected Engineers and consultants) shall meet to reconcile any questions, discrepancies or disagreements relating to the qualifications and assumptions and the Design Development Documents. The reconciliation shall be documented by an addendum to the qualifications and assumptions approved in writing by City, the design team and the selected Respondent. The selected Respondent then shall submit to City for approval the selected Respondent's proposed final GMP. Contingent upon City's approval of the final GMP, the parties shall enter into an amendment to the CMR Agreement, establishing the final negotiated GMP. The final negotiated GMP shall not exceed the Project's established construction budget of $13,000,000.00.

GMP Development:

At each phase of Project design, City, at its sole discretion, shall determine whether it will proceed to the next phase or terminate CMR's Agreement for this Project. At completion of Design Development Documents, throughout construction document development and at stages defined in the CMR Agreement, CMR shall provide detailed cost estimates and City, at its sole discretion, shall determine if it will accept the CMR-provided cost estimate as the Project's GMP. If CMR's proposed GMP

exceeds the Project's established construction budget, City may terminate its Agreement with the selected Respondent and may select an alternative delivery method for this Project.

Construction Phase:

During the construction phase, the selected Respondent shall solicit, award and enter into, as a general contractor, all subcontracts necessary and appropriate to provide all labor and materials for the work. The selected Respondent shall comply with the construction services outlined in City's General Conditions (attached hereto, incorporated herein by reference and labeled as **"Exhibit A"**) and the CMR Agreement template (attached hereto, incorporated herein by reference and labeled as **"Exhibit B"**). The selected Respondent shall provide on-site construction management, to include:

(1) Attendance at progress meetings;
(2) Written daily reports;
(3) Quality assurance and quality control, and
(4) On-site representation, comprised of the selected Respondent and its consultant staff involved in the Project, all having relevant and appropriate types of construction management experience.

City reserves the right to perform work related to the Project and to award separate contracts for work related to the Project.

The selected Respondent shall manage the construction of the Project pursuant to the construction documents and in accordance with the schedule and budget requirements. The selected Respondent shall hold all subcontracts and fully shall be responsible for the means and methods of construction, Project safety, quality, Project completion within the schedule agreed upon in the preconstruction phase, compliance with all applicable laws and regulations (including monitoring compliance with all equal employment and prevailing wage requirements) and submitting monthly reports of these activities to City. City reserves the right to approve and/or reject the selected Respondent's selection of subcontractors and any terms to CMR's subcontracting agreements.

Construction phase services by the selected Respondent shall include, but are not limited to:

•Construction of the facility, as outlined above;
•Coordination with City, Consultants and Stakeholders;
•Direct coordination with and management of local utility service installation;
•Arrangement for the procurement of materials and equipment;
•Construction staging and post-construction activities;
•Scheduling and management of site operations;
•Quality control;
•Bonding and insurance of the construction;
•Maintaining a safe work site for all project participants;

The selected Respondent shall work collaboratively with the Project's design team throughout the Project's design phase to ensure constructability and shall join the Project during the design development phase to provide preconstruction-related services through the completion of the design efforts. During the preconstruction phase, the selected Respondent shall develop a rough order of magnitude at each phase of design.

At approximately ninety percent (90%) of the Project's design, or when City so designates, the selected Respondent shall submit a GMP to City for approval and shall assume the risk of delivering the Project through said GMP contract.

III. SCHEDULE OF EVENTS

Pre-Submittal Conference	Monday, August 29, 2016
Deadline for Submittal of Written Questions	Tuesday, September 6, 2016
Phase I Qualifications Responses due	Friday, September 23, 2016
Phase II Interview Letter to Short-listed Firms	October 2016 (TBD)
Phase II Proposed Fees	October 2016 (TBD)
Interview Short-listed Firms	November 2016 (TBD)
Anticipated City Council Consideration	December 2016 (TBD)

IV. PRE-SUBMITTAL CONFERENCE

A Pre-Submittal Conference is scheduled to be held on **Monday, August 29, 2016 at 10:00A.M.** at the **Municipal Plaza Building, 1st Floor, C Room, located at 114 W. Commerce St., San Antonio, Texas 78205**. Attendance at the Pre-Submittal Conference is optional but strongly encouraged. Respondent is encouraged to prepare and submit its questions in writing three (3) calendar days in advance of the Pre-Submittal Conference, in order to expedite the proceedings.

City's responses to questions received by this due date may be distributed at the Pre-Submittal Conference and posted on City's website at http://epay.sanantonio.gov/RFPListings/.

This meeting place is accessible to disabled persons. The Municipal Plaza Building is wheelchair accessible. The accessible entrance is located at 114 W. Commerce. Accessible parking spaces are located at City Hall, 100 Military Plaza. Auxiliary aids and services are available upon request. Interpreters for the Deaf shall be requested at least 48 hours prior to the meeting. For assistance, call (210) 207-7245 Voice/TTY.

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

V. SUBMITTAL DOCUMENT REQUIREMENTS FOR PHASE I OF SOLICITATION

This RFQ is part of a two-part solicitation process. City shall appoint a selection committee to perform the evaluations and shall conduct a comprehensive, fair and impartial evaluation of all Statements of Qualifications received in response to this RFQ and shall rank each submittal received in response to this RFQ using the criteria set forth herein. Based on the evaluation process, the selection committee

may qualify a maximum of five (5) Respondents to participate in second phase of the solicitation process.

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

A. EXECUTIVE SUMMARY – Respondent shall include a one-page Executive Summary for the Statement of Qualifications ("SOQ"). The summary shall state the number of years in business, number of years in business in the local office, local office address and number of employees employed in local office.

B. SUBMITTAL COVER / SIGNATURE PAGE **(Form #1)** – Respondent shall include the completed Submittal Cover/Signature Sheet with submittal, indexed or labeled as "**Tab 1".** The Submittal Cover/Signature Sheet shall be signed by a person, or persons, authorized to bind the entity or entities submitting the response. Submittals signed by a person other than an officer of the company or partner of the firm shall be accompanied by evidence of authority. Joint ventures require signatures from all firms participating in the joint venture. Joint ventures are required to provide legal proof of the joint venture such as a joint venture agreement as an attachment to their submittal.

C. SUBMITTAL CHECKLIST AND TABLE OF CONTENTS **(Form #2)** – Respondent shall complete this form, which is to be used as the Table of Contents for its submittal. The checklist shall be indexed or labeled as "**Tab 2"** in submittal.

D. DISCRETIONARY CONTRACTS DISCLOSURE FORM **(Form #3)** – Respondent shall complete the form online at, https://www.sanantonio.gov/eforms/atty/ContractsDisclosureForm.pdf, print a copy of the completed form and submit the form as **"Tab 3"** in its ORIGINAL SUBMITTAL ONLY. If Respondent is proposing as a team or joint venture, then each party to that team or joint venture shall complete and submit a separate form with the submittal.

E. LITIGATION DISCLOSURE FORM **(Form #4)** – Respondent shall complete a Litigation Disclosure form, using additional pages for explanation, if necessary, and submit the form indexed or labeled as **"Tab 4"** in submittal. If Respondent is proposing as a team or joint venture, then each party to that team or joint venture shall completed and submit a separate form with the submittal.

F. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY **(Form 5)** – Respondent shall submit a completed and signed Subcontractor/Supplier Utilization Commitment Form indicating the selected Respondent commits to satisfy a **Nineteen Percent (19%)** Small Business Enterprise (hereafter referred to as "SBE") subcontracting goal for this solicitation. Absent a waiver granted by the City of San Antonio Economic Development Department, failure to submit a completed Subcontractor/Supplier Utilization Commitment Form in its response shall render Respondent's submittal **NON-RESPONSIVE**. This form shall be indexed and labeled as **"Tab 5"** in the submittal.

G. CONTRACT TEMPLATE AND GENERAL CONDITIONS (Indexed and labeled as **"Tab 6")** – Respondent is to review City's General Conditions for City of San Antonio Construction Contracts and City's Construction Manager at Risk Contract template, provided hereto as RFQ **Exhibit A** and **Exhibit B**, and provide written comments and/or concerns regarding the General Conditions and CMR Contract. If Respondent does not have any comments and/or concerns, Respondent shall indicate this in this **Tab 6**. If no comments and/or concerns are submitted by the Respondent, City shall presume Respondent will sign the Contract as presented, if a Contract is awarded.

H. PROOF OF INSURABILITY (Indexed and labeled as **"Tab 7"**) – Respondent shall submit a copy of its current insurance certificate.

I. LETTERS OF REFERENCE (required) – Respondent shall provide a maximum of five (5) letters of reference. Letters of Reference shall be indexed and labeled as **"Tab 8".**

J. CERTIFICATE OF INTERESTED PARTIES (TEC Form 1295) (Indexed and labeled as **"Tab 9"**) – Effective January 1, 2016, the City of San Antonio is required to comply with Texas Government Code, Chapter 2252, Subchapter Z, Section 2252.908 (hereafter referred to as "the Code"). The Code states City shall not enter into a contract with a business entity unless and until the business entity has submitted a Certificate of Interested Parties (hereafter referred to as "Form 1295") to City for filing with the Texas Ethics Commission (hereafter referred to as "TEC"). The Form 1295 requirement imposed upon City applies to ALL contracts:

- having a value greater than $50,000;
- requiring San Antonio City Council approval; and/or
- renewals, extensions or amendments must be approved by the San Antonio City Council.

TEC has made available on its website the new filing application that must be used by Respondent to file its Form 1295 with City. Respondent shall use TEC's application to enter the required information on Form 1295 and print a copy of the form containing a unique certification number for that response.

An authorized agent of Respondent then must sign the printed copy of the form and have the Form 1295 notarized. The notarized completed Form 1295 containing the unique certification number then must be submitted with Respondent's submittal to City, pursuant to this solicitation, to ensure City and Respondent meet the Code requirements.

Form 1295 must be completed on-line by the business entity. It is accessible at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

As a result of this new requirement imposed upon City by the Code, City is requiring **all** Respondents submitting on **each** project to complete Form 1295, print a copy showing the unique Certification Number and Date Filed in the Certification of Filing box at the upper right

corner of Form 1295 for that submittal, sign it, have it notarized and submit it with their submitted proposal.

City shall review Form 1295 as part of the Minimum Requirements Review performed upon receipt of the all proposals. Deficiencies in or missing Form 1295 shall not be a disqualifying error. Instead, City shall notify Respondent of any requirements to cure the deficiency and/or to submit/re-submit Form 1295 within two (2) days of notice to remain eligible to be considered for a contract award. City shall include the selected Respondent's Form 1295 in its package prepared for the San Antonio City Council's consideration for contract award.

K. STATEMENT OF QUALIFICATIONS – Respondent shall provide a narrative document addressing all evaluation criteria in **Section II** of this RFQ. Sufficient information regarding Respondent's past projects and key personnel's experience shall be provided in Respondent's submittal to indicate its team has met or exceeded the minimum qualifications cited in Section II of this RFQ.

A. Experience and Qualifications of Prime Firm and Key Sub-Contractors (40 Points)

Respondent shall respond to the following items as they relate to **Section II. Scope of Services.**

1. **Experience (Indexed and Labeled as "Tab 9")** – Provide a narrative in three (3) pages or less describing Respondent's team's qualifications, as they relate to construction of projects of similar type, size and complexity. Include a history of how Respondent's team has worked together on past similar projects, including the number of years working as a team. In addition, Respondent shall provide the following:

    a. A demonstrated minimum of ten (10) years of experience in building projects of like size, complexity and type;
    b. Respondent shall provide its proposed individual team member's expertise and experience, if any, in managing civil works-related projects with high quality finishes and landscape installations;
    c. Respondent should have experience and an understanding in construction management of downtown multi-phased projects and projects with on-going commercial operations;
    d. Respondent's Project Management experience; and
    e. Respondent's Cost estimating services.

2. **Project Sheets (Indexed and Labeled as "Tab 10")** – Respondent is requested to provide one (1) page project sheets for, at maximum, three (3) successfully completed projects of both similar size, complexity and scope, with at least one (1) utilizing the CMR project delivery method, in the past ten (10) years. Each project sheet shall include the following:

    a. Description of the scope of the project, including whether the project was multi-phased, the level of LEED certification, if any, and whether the project was in an operating facility or the facility was closed during the construction;
    b. Photograph of the project;

c. Year of the project;
d. If not CMR delivery method, identify type of delivery method;
e. Project's proposed completion date and actual completion date achieved (explain inconsistencies);
f. Project's original and final construction contract amounts (explain inconsistencies);
g. Name of Respondent's project manager, noting whether this individual shall work on this Project and his/her role planned for this Project;
h. Project Superintendent and note whether this individual shall work on this Project and his/her role planned for this project;
i. Project owner's name and the name of the representative (if different) who served as the day-to-day liaison for the project in the following format:

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

Name of Architect/Engineer: _____
Name of Owner's representative: _____
Representative's Phone Number: _____
Representative's E-mail: _____

3. **Proposed Key Personnel/Organizational Chart (Indexed and Labeled as "Tab 11"** – Key personnel included in this section are expected to be the same personnel assigned to the Project and named in the CMR Agreement, if awarded. Respondent shall provide a detailed organizational chart of its firm, identifying key personnel who will be committed to work on the various tasks for this Project. In addition, Respondent shall provide a narrative description on the organization chart describing the proposed assignments, roles and responsibilities, lines of authority and communication for each team member to be directly involved with this Project. Respondent's proposed key personnel shall demonstrate a knowledge or and experience with relevant concourse connector and security screening checkpoint facilities or similar type projects. Label key personnel assignments as:

a. Proposed Project Manager;
b. Proposed Project Estimator;
c. Coordination of the project design and requirements with regulatory agencies and authorities;
d. Quality assurance/quality control (design);
e. Quality assurance/quality control (construction); and
f. Plan review coordination for securing all applicable permits.

4. **Resumes (indexed and labeled as "Tab 12")** – Respondent shall submit one-page resumes for all key team members. Resumes should link to the provided project sheets and also may include additional previously completed relevant projects not highlighted in the project sheets. Resumes also shall include the license type (if applicable), number of years with a firm, number of years' experience in proposed

role and experience (if any) with use of BIM technology in delivery of previous construction projects.

B. Understanding of the Project and Proposed Management Plan (35 Points)

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

1. **Pre-Construction Management** – Shall be indexed and labeled as **"Tab 13"**. Limit response to the following items to two (2) pages:
   - Describe your firm's management approach and team organization for the provisions outlined in this RFQ;
   - Describe your team's Quality Control/Quality Assurance Process, approach and capabilities to maintain quality control of the design and construction; and
   - Describe your approach to assuring timely completion of designs, including methods for schedule recovery, if necessary.

2. **Construction Management - Shall be indexed and labeled as "Tab 14". Limit response to the following items to two (2) pages:**
   - Describe your construction observation and quality control approach and ability to coordinate with all stakeholders;
   - Describe your cost estimating methods and approach to construction documents and bid phase management; and
   - Describe your mechanism to track and respond to request for information, review of change orders, coordination construction progress meeting with the contractor, preparing and distributing meeting minutes, reviewing schedules, and other construction phase.
   - Describe your approach and experience in developing, monitoring and managing phasing plans to ensure continued operations while construction takes place.

C. Team's Experience with San Antonio Region Issues and Past Experience with City of San Antonio Contracts (10 points)

City is interested in evaluating Respondent's team and any of Respondent's key Subcontractors' experience with San Antonio issues, as may be evidenced by work in San Antonio and the surrounding area, during the past five (5) years. In narrative form, using a maximum of two (2) pages, briefly describe Respondent's team's and key Subcontractors' experience in the following areas and reference projects relating to that experience. Note: you may reference projects included in project sheets under **Criteria A** above or include other projects, but no additional project sheets shall be provided for this criteria. This information shall be indexed and labeled as **"Tab 15."**

- Local area construction costs and practices;
- Local environmental community, conditions and constraints;
- Involvement in project development, as it relates to public awareness in the local area;

- Respondent's experience with public utilities within the San Antonio and/or surrounding area;
- Local site development; and
- Building code requirements.

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

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

D. Proposed Costing Method (10 Points)

1. In a one-page summary, describe your team's processes, software or other tools to be used to generate estimates, analyze alternatives, control, monitor and report cost performance throughout the Project's duration to stay on time and within budget. This information shall be indexed and labeled as "**Tab 16**".

2. In a two-page summary, describe your method and process for working with the Project design team and its consultants to deliver a GMP and to maintain the GMP throughout the design and construction phase. Describe your policies on Subcontractor mark-up and your cost control methods during construction. Describe how you procure qualified sub-contractors. This information shall be indexed and labeled as "**Tab 17**".

E. EXPERIENCE WITH CPS/SAWS/AT&T – (5 points)

City is interested in evaluating Respondent's team and any of Respondent's key Subcontractors' experience with CPS, SAWS, and AT&T as may be evidenced by work in San Antonio and the surrounding area, during the past five (5) years. In narrative form, using a maximum of two (2) pages, briefly describe Respondent's team's and key Subcontractors' experience in the following areas and reference projects relating to that experience**..**

F. SBEDA – (20 points)

SBE Prime Contract Program – 10 pts.

Certified SBE firms (see *Small Business Enterprise* definition) headquartered or having a Significant Business Presence within the San Antonio Metropolitan Statistical Area responding to this solicitation as Prime CONTRACTORs proposing at least 51% SBE participation (Prime and/or Subcontractor) will receive ten (10) evaluation criteria points, **and**

M/WBE Prime Contract Program –10 pts.

Certified M/WBE firms (see *Minority/Women Business Enterprise* definition) headquartered or having a Significant Business Presence within the San Antonio Metropolitan Statistical Area responding to this solicitation as Prime CONTRACTORs proposing at least 51% M/WBE participation (Prime and/or Subcontractor) will receive ten (10) evaluation criteria points.

No evaluation criteria points will be awarded to non-SBE or non-M/WBE Prime CONTRACTORs through subcontracting to certified SBE or M/WBE firms. Further, failure to meet 19% M/WBE and 3% AABE requirements will deem your proposal nonresponsive.

These points shall be awarded pursuant to the San Antonio Small Business Economic Development Advocacy (hereafter referred to as "SBEDA") program to qualifying Respondents. No items are required to be submitted by Respondent for this criterion.

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

Phase I Evaluation Criteria Summary:	**Maximum Points**
A. Experience and Qualifications of Respondent and Key Sub-Consultants and Subcontractors	**30 Points**
B. Respondent's understanding of the Project and Proposed Management Plan	**25 Points**

C. Respondent's Team's Experience with San Antonio Region Issues and Past Experience with City of San Antonio Contracts	**10 Points**
D. Proposed Costing Method(s)	**10 Points**
E. Experience with CPS, SAWS, & ATT	**5 Points**
F. SBEDA	**20 Points**
Total Maximum Points	**100**

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

VI. PHASE II EVALUATION CRITERIA (INTERVIEWS), IF SELECTED

Based on the evaluation process of Phase I, as outlined herein, the selection committee may qualify a maximum of five (5) Respondents (hereafter referred to as "short-listed firms') to participate in Phase II of the solicitation process. Phase II of the solicitation process shall include requests for additional information from the short-listed firms and shall include an invitation for an interview. Additional information requested may include more detailed information from Respondent regarding demonstrated competence and qualifications, the ability of Respondent to meet the Project schedule and other information, as deemed appropriate. During Phase II of the solicitation process, the selection committee will evaluate and rank the short-listed firms based on the published evaluation criteria set forth below:

Phase II Evaluation Criteria Summary (Short-listed firms only):	**Maximum Points**
A. Background of Respondent, Key Personnel, and Key Sub-Consultants and Subcontractors	**15 Points**
B. Respondent's Proposed Approach to Meeting Project	**20 Points**

Schedule	
C. Project Understanding	**15 Points**
D. Respondent's Team's Experience with downtown San Antonio Issues and Past Experience with City of San Antonio Contracts	**10 Points**
E. Experience with CPS, SAWS, & ATT	**5 Points**
F. SBEDA (carried forward from Phase I)	**20 Points**
G. Respondent's Proposed Fees (as a percentage) for General Conditions and Overhead & Profit	**20 Points**
Total Maximum Points	**100**

VII. PHASE I SUBMITTAL INSTRUCTIONS

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

Respondent shall submit a total of nine (**9**) Qualification Statements which shall include one (**1**) original unbound Qualification Statement, signed in ink, and eight (9) printed copies, as well as one (**1**) copy of the entire submittal in an Adobe PDF format on a compact disk (**CD**) or flash-drive in a sealed package, clearly marked on the front of the package "**RFQ: CONSTRUCTION MANAGER FOR Civic Park Utilities Package"** All submittals must be received in City Clerk's Office **NO LATER THAN 3:00 PM ON Friday, September 23, 2016** at the address indicated below. Any submittal received after this time shall not be considered.

Physical Address:
City Clerk's Office
Attn: Transportation and Capital Improvements Department
100 Military Plaza
City Hall, 1st Floor,

San Antonio, Texas 78205

Submittals sent by facsimile or email will not be accepted.

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

A Respondent submitting a response to this RFQ correctly shall reveal, disclose and state the true and correct name of the individual, proprietorship, corporation and/or partnership submitting, clearly identifying the responsible general partner and all other partners associated with the contract, if any. No nick-names, abbreviations (unless part of the legal title), shortened, short-hand or local "handles" will be accepted in lieu of the full, true and correct legal name of the entity. The submitted name(s) shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings. A corporate Respondent and limited liability company Respondent shall include the 11-digit Comptroller's Taxpayer Number on the signature page of the Proposal.

VIII. AMENDMENTS TO RFQ

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

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

IX. RESTRICTION ON COMMUNICATIONS

Once this RFQ has been released, Respondent is prohibited from communicating with City staff regarding the RFQ or Submittals, with the following exceptions:

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

1. Respondent may ask verbal questions concerning this RFQ at the Pre-Submittal Conference.
2. Respondent may submit written questions concerning this RFQ to the Staff Contact Person listed in the address below until **3:00 PM on Friday, September 2, 2016**. Questions received after the stated deadline will not be answered. It is suggested that all questions be sent by electronic mail or by fax.

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

   Kelcey Young, Contract Manager
   City of San Antonio, Transportation and Capital Improvements Department
   Contract Services Division
   114 W. Commerce Street
   9th Floor, Room 912
   San Antonio, TX 78205
   or
   Kelcey.Young@sanantonio.gov
   Fax: 210-207-4034

3. Respondent and/or its agent(s) are encouraged to contact the Small Business Office of the Economic Development Department for assistance or clarification with issues specifically related to City's Small Business Economic Development Advocacy (SBEDA) Program policy and/or completion of the SBEDA forms. The point of contact is Shuchi Nagpal and she may be reached by telephone at (210) 207-1001 or by e-mail at Shuchi.Nagpal@sanantonio.gov. **This exception to the restriction on communication does not apply and there is no contact permitted to the Small Business Office (SBO) regarding this solicitation, *after* the solicitation closing date.**

4. Respondent may provide responses to questions asked of it by the Staff Contact Person after responses are received and opened. During the interview phase (Phase Two), if any, verbal questions and explanations shall be permitted. If interviews are conducted, Respondent shall

not bring lobbyists. City reserves the right to exclude any persons from such selection committee meetings as it deems in its best interests.

X. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

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

The SOQs submitted in response to this RFQ, together with the subsequent additional information and Costing Methodology submitted by the short-listed Respondents in Phase Two of the solicitation process, shall be analyzed based on the published criteria by City in determining which Respondent firm shall provide the best value to City for the project being solicited.

1. The contract, if awarded, shall be awarded to the Respondent deemed most qualified and of the best value to City, as determined by the selection committee and subject to approval of the San Antonio City Council.

2. City may accept any submittal in whole or in part. If subsequent negotiations are conducted, those negotiations shall not constitute a rejection or alternate solicitation on the part of City. However, final selection of a Respondent is subject to San Antonio City Council approval.

3. City reserves the right to accept one or more submittals or reject any or all submittals received, in response to this RFQ and the subsequent interview process, and to waive informalities and irregularities in the submittals received. City further reserves the right to terminate this solicitation for the Project listed, reissue a subsequent solicitation or solicitations and/or remedy technical errors in the process.

4. City shall require the selected Respondent to execute a CMR contract with City in substantially the form as the contract attached to this solicitation, prior to San Antonio City Council award. No work shall commence until City signs the contract document(s) and the selected Respondent provides the necessary evidence of insurance as required in the contract. Contract documents are not binding on City until approved by City Attorney.

5. In the event the parties cannot negotiate and execute a contract within the time specified by City, City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.

6. This solicitation neither commits City to enter into a contract nor award any services related to this solicitation. This solicitation does not obligate City to pay any costs incurred in Respondent's preparation or the submission of a response or in anticipation of a contract.

7. The successful Respondent must be able to formally invoice City for CMR services rendered, incorporating the SAP-generated contract and purchase order numbers that shall be provided by City. City administers its design and construction management through an Internet-based management system. All vendors are required to comply with Specification 700 of City of San Antonio Standard Construction Specifications.

8. Conflicts of Interest. Respondent acknowledges and accepts it is informed of and in compliance with the Charter of the City of San Antonio and its Ethics Code prohibiting 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. Respondent is informed of and aware a City officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: City officer or employee; his parent, child or spouse; a business entity in which he or his parent, child or spouse owns ten percent or more of the voting stock or shares of the business entity, or ten percent or more of the fair market value of the business entity; or a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

9. Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of City, as defined in Section 2-42 of City's Ethics Code. (Discretionary Contracts Disclosure – Form 3 in this RFQ).

10. Independent Contractor. Respondent agrees and understands, if selected, it and all persons designated by it to provide services in connection with a contract, is/are and shall be deemed to be an independent contractor(s), is/are responsible for its/their respective acts or omissions, City shall in no way be responsible for Respondent's actions and that none of the parties hereto shall have the authority to bind the other(s) or to hold out to third parties it has such authority.

11. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires persons or their agents who seek to contract for the sale or purchase of property, goods or services with City shall file a completed Conflict of Interest Questionnaire (hereafter referred as "CIQ") with City Clerk not later than the seventh (7th) business day after the date that the person: (1) begins contract discussions or negotiations with City; or (2) submits to City an application, response to a request for proposal, offers, correspondence or another writing related to a potential agreement with City. The CIQ form is available from the Texas Ethics Commission at:

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

In addition to the CIQ form, City requires individuals to submit a CIQ Addendum. The CIQ Addendum is available from City of San Antonio at:

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

Completed CIQ forms and CIQ addendum forms may delivered by hand to the Office of the

City Clerk at City Hall, 1st floor, 100 Military Plaza, San Antonio, TX 78205 or may be mailed to the Office of City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. Respondent shall consult its own legal advisor if it has any questions regarding the statute, CIQ form or CIQ Addendum

12. Respondent's submittal and/or any portion thereof becomes the property of City upon receipt by City and will not be returned. Any information deemed to be confidential by Respondent should be clearly noted on the page(s) where confidential information is contained. However, City cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Respondent may not be considered confidential under Texas law or pursuant to a court order.

13. Any cost or expense incurred by the Respondent associated with the preparation of its submittal, the Pre-Submission Conference, if any, or during any phase of the selection process, shall be borne solely by Respondent.

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

15. Subsequent to the issuance of this solicitation, both TCI and City reserve the right to amend this solicitation, waive any requirement or irregularity, request modifications to submittals, providing all teams are treated equally and/or reject any and all submittals for any reason or for no reason. TCI and City further reserve the right to award one or more contracts pursuant to this solicitation, as deemed in City's best interest, and to request changes in the composition of any of Respondent's proposed team members.
16. Solicitation Review Process. Any respondent desiring a review of the solicitation process shall submit a written request to the TCI Director within seven (7) calendar days from the date the notice of non-selection for this Project was sent. When the TCI Director receives a timely written request, the TCI Director, or his/her designee, shall review the respondents concerns and the solicitation process for legitimacy and procedural correctness. After performing a full review, the TCI Director shall notify the respondent in writing of his/her determination.

17. Debriefings. In an effort to improve solicitation responses, TCI is making available on its web site a "Solicitation Response Tip List" that includes the top common items which historically "make or break" submissions. Providing this information prior to the due date of the submittal provides Respondent with an opportunity to develop a better response for its solicitation submittals. As a result of this up-front effort, each Respondent is entitled to <u>one</u> (1) debriefing per calendar year on a solicitation following the San Antonio City Council's award pursuant to that solicitation if:

    (a) Respondent is not the selected respondent; and

    (b) Respondent has not been debriefed since January 1, 2016.

    Once a firm has been debriefed, it will not be eligible for future debriefings within that calendar year. Any Respondent meeting the above criteria desiring an individual submittal debriefing

must deliver a written request to the TCI Contract Services Division within seven (7) calendar days from the date a notice of non-selection was sent.

XI. 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.

Waiver Request - Respondent may request, for good cause, a full or partial Waiver of a **specified subcontracting goal** included in this solicitation by submitting the *Respondent Subcontracting Waiver Request* form *(available at* http://www.sanantonio.gov/SBO/Forms.aspx*)* with its solicitation response. The Respondent's Waiver request must fully document Sub-Contractor unavailability despite the Respondent's good faith efforts to comply with the goal. Such documentation shall include all good faith efforts made by Respondent including, but not limited to, which Sub-Contractors were contacted (with phone numbers, e-mail addresses and mailing addresses, as applicable) and the method of contact. **Late Waiver requests will not be considered.**

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

B. SBEDA Program

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

Centralized Vendor Registration System (CVR) – a mandatory electronic system wherein the City requires all prospective Respondents and Sub-Contractors 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.

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

Commercially Useful Function – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by CONTRACTOR to perform such "pass-through" or "conduit" functions that are not commercially useful shall be viewed by the CITY as fraudulent if CONTRACTOR attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, the CONTRACTOR shall not be given credit for the participation of its S/M/WBE sub-Contractor 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.

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

Good Faith Efforts – documentation of 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 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 Sub-Contractors; 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 Contractors that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Sub-Contractors.) The appropriate form and content of Contractor's Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

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

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

Individual − an adult person that is of legal majority age.

Industry Categories – procurement groupings for the City 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 $1/16^{th}$ 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 Sub-Contractors and vendors for City contracted goods and/or services.

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

Prime Contractor – the vendor or Contractor to whom a purchase order or contract is issued by 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.

Sub-Contractor – 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 Sub-Contractors 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.

Sub-Contractor/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 Sub-Contractors/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 Sub-Contractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Sub-Contractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Sub-Contractor/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. <u>SBEDA Program Compliance – General Provisions</u>

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 Sub-Contractors, 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 Sub-Contractors 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 Sub-Contractors 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 Sub-Contractors 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 Sub-Contractor / 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 Sub-Contractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Sub-Contractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by Contractor of work previously designated for performance by Sub-Contractor or supplier, substitutions of new Sub-Contractors, terminations of previously designated Sub-Contractors, or reductions in the scope of work and value of work awarded to Sub-Contractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.

5. Contractor shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the CITY, as well as any transfer or change in its ownership or business structure.

6. Contractor shall retain all records of its Sub-Contractor 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 Sub-Contractor / Supplier Utilization Plan, the Contractor shall not be given credit for the participation of its S/M/WBE or HUBZone Sub-Contractor(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 City will not execute a contract or issue a Notice to Proceed for this project until the Contractor and each of its Sub-Contractors 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 Sub-Contractor will be performing under for this contract.

E. SBEDA Program Compliance – Affirmative Procurement Initiatives

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

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

M/WBE Subcontracting Program. In accordance with SBEDA Ordinance Section III. D. 2. (b), this contract is also being awarded pursuant to the M/WBE Subcontracting Program. Contractor agrees to subcontract at minimum **nineteen percent (19%) the amount indicated on the Subcontractor/Supplier Utilization Commitment Form for this project** of its prime contract value to certified M/WBE firms headquartered or having a Significant Business Presence within the San Antonio Metropolitan Statistical Area (SAMSA). The Sub-Contractor/Supplier Utilization Plan which

Contractor submitted to City with its response for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified M/WBE Sub-Contractors to be used by Contractor on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each M/WBE Sub-Contractor, and documentation including a description of each M/WBE Sub-Contractor's scope of work and confirmation of each M/WBE Sub-Contractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the SBO, the failure of Contractor to attain this Sub-Contractor goal for M/WBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with City, and may result in debarment from performing future City contracts and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law **and,**

Segmented M/WBE Goal. In accordance with SBEDA Ordinance Section III. D. 2. (d), this contract is being awarded pursuant to Segmented M/WBE Goals. Contractor agrees to subcontract at least **three percent (3%) the amount indicated on the Subcontractor/Supplier Utilization Commitment Form for this project** of its prime contract value to certified African American Business Enterprise (AABE) firms headquartered or having a significant business presence within the San Antonio Metropolitan Statistical Area (SAMSA). This three percent (3%) subcontracting goal will also count toward the aforementioned nineteen percent (19%) M/WBE subcontracting goal. The Subcontractor / Supplier Utilization Plan that Contractor submitted to City with its response for this contract (or, as appropriate, that it agrees to submit during the price proposal negotiation phase of this contract), and that contains the names of the certified AABE Sub-contractors to be used by Contractor on this contract, the respective percentages of the total prime contract dollar value to be awarded and performed by each AABE Sub-contractor, and documentation including a description of each AABE Sub-contractor's scope of work and confirmation of each AABE Sub-contractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the SBO, the failure of Contractor to attain this subcontracting goal for AABE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the City, and may result in debarment from performing future City contracts, withholding of payment for retainage equal to the dollar amount of the underutilization below the agreed upon AABE subcontracting goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the SBEDA Ordinance, or under any other law.

Subcontractor Diversity: The City of San Antonio strongly encourages each bidder to be as inclusive as possible, and to reach out to all segments of the M/WBE community in its efforts to exercise good faith in achieving the M/WBE subcontracting goal of 19% and AABE subcontracting goal of 2% that have been established for this contract. While the relative availability of ready, willing, and able firms within various ethnic and gender categories will vary significantly from contract to contract based upon the particular trades that are involved, overall in the San Antonio Construction industry, as reflected in the City's Centralized Vendor Registration system for the month of August 2014, African-American owned firms represent approximately 2.51% of available sub-contractors, Hispanic-American firms represent approximately 17.10%, Asian-American firms represent approximately 1.09%, Native American firms represent approximately 0.32%, and Women-owned firms represent approximately 5.01% of available construction sub-contractors.

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 Sub-Contractors, 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 Sub-Contractors, 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 incorporated into the material terms of this Agreement. Contractor shall incorporate this clause into each of its Sub-Contractor 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 Sub-Contractors, including HUBZone Sub-Contractors, to ensure that the Contractor's reported subcontract participation is accurate. Contractor shall pay its Sub-Contractors 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).