



**SOLICITATION NO: Q-09-017-MR**

**REQUEST FOR QUALIFICATIONS**

**PROFESSIONAL CONSULTING SERVICES FOR THE  
SUPERVISORY CONTROL AND DATA ACQUISITION  
SYSTEM (SCADA) ASSESSMENT PROJECT**

**Release Date October 14, 2009**

**DEADLINE: NOVEMBER 04, 2009 @ 4:00 PM CENTRAL TIME**

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## I. PROJECT INFORMATION

### a. OBJECTIVE

The San Antonio Water System (SAWS) is pursuing professional consulting services and is accepting statements of qualifications from firms capable of providing study and assessment services to ensure the safe and secure operation of its Supervisory Control and Data Acquisition (SCADA) system.

### b. BACKGROUND

The San Antonio Water System (SAWS) is a municipally-owned potable water production and distribution, wastewater collection and treatment, recycle water production and distribution and, steam and chilled water production and distribution utility. The System was created by ordinance by the City Council of the City of San Antonio in May 1992. Of the many infrastructure tools utilized at SAWS is the SCADA System.

In 2008 a security audit was conducted regarding the SAWS SCADA System. The objective of the SCADA security audit was to determine whether the system is adequately protected against unauthorized individuals that may damage, alter, redirect, or disrupt the proper operation of the system which may result in disruption of water service, tampering of water safety mechanisms, and other public safety concerns.

Key areas addressed were:

- a) Physical security
- b) Network security
- c) Security management
- d) Application security
- e) Security monitoring and incidence response
- f) Evaluation of all existing third-party applications
- g) Backup and recoverability of systems

A report resulted in recommended changes include suggested security administration and management process changes and strengthening the logical and physical security mechanisms as well as controls.

As a result of the report and to improve the general operational standing of the SCADA system, SAWS is pursuing professional consultant services to include but not limited to providing assistance to perform the following scope of services.

### c. SCOPE OF SERVICE

The selected consultant will be expected to perform the following functions and to provide services as outlined below:

- i. To generally assist SAWS improve Security of the SCADA Application and Operating Systems.
- ii. Provide assessments and recommendation of security product(s) to protect the Linux and Open VMS operating systems.
- iii. Strengthen and Improve Network Security by providing:

1. Assessments and recommendation of an intrusion prevention system to protect, administer, and detect all risks, exposures, and potential threats to the SCADA network.
  2. Consultation with Transdyn (SCADA vendor) for assessment and upgrade to a more secure, more advanced network protocol and encryption software for wireless infrastructure.
  3. Assessment and recommendation of anti-virus software for workstations, servers and SCADA network.
  4. Assessment and recommendation of commercial grade firewalls, intrusion detection systems (IDS), and other appropriate security measures at each point of entry to the SCADA Control System.
  5. The Development and Implementation of a SCADA Security Policy.
  6. SCADA Organization and Relationships Policy
  7. SCADA Architecture.
  8. Security Administrator Policy.
- iv. Develop and Implement a SCADA Security Management Program to include:
1. Data Security Policy - The policy determines the treatment of the data categories defined in the SCADA Security Management Program. All forms of data (be they paper, digital, video, etc.) must be protected commensurate with their criticality to the system. Data Backup and Malicious Software Protection policies shall also be developed and implemented.
  2. Platform Security Policy - Policy will identify secured configuration defaults that are required within the SCADA system. This policy shall include procedures for formalized access request, authorization process, secure configuration defaults, account creation and termination.
  3. Communication Security Policy - Policy will identify the paths which data will take through a network, details protection mechanisms for different network segments, identifies security zones, and specifies external connection permissions. Wired Connectivity, Wireless Connectivity, and Perimeter policies shall also be developed and implemented.
  4. Personnel Security Policy - Policy will address and define acceptable use, accounts and passwords, clearance needs, and training requirements.
  5. Configuration Management Policy - The configuration management policy ensures that a sustainable configuration management process is implemented. Policy will address the necessary documentation and processes needed for a sustainable SCADA security system. Security Plan and Guidance and

Configuration Accounting policies shall also be developed and implemented.

6. Quality Control Policy - Policy will define the scope of quality control and assessment activities. Identify individuals who are responsible for scheduling and reviewing quality control. Schedules for projected inspections are delineated. Incident Reporting, Logging, and Intrusion Detection policies shall also be developed and implemented.
7. Application Policy - Policy will define the details of program-level access control, application training, as well as test and development requirements. And ensure that applications are configured and used in a manner commensurate with the security needs of the SCADA control system.
8. Physical Security Policy - Policy will define protection methods of the equipment used by the SCADA system from physical damage, unauthorized access, or destruction. Access to any equipment by visitors and personnel must be controlled and monitored.
9. Change Management
  - a. Develop and implement a Security and Change Policy. To address revision processes and timelines for security plans, policies, and implementation guidance. And elements of change control and change evaluation (including patching).

d. ADDITIONAL REQUIREMENTS

- i. Respondents are expected to have proven subject matter expertise with the general scope of services outlined above.

e. ESTIMATED TIMELINE

October 14, 2009	RFQ Issued
October 26, 2009 by 04:00 PM Central	Receipt of Written Questions Due
October 28, 2009 by EOB	Answers to Questions Posted
November 04, 2009 by 4:00 PM Central	SOQs Due
November 2009	SOQs Evaluated
November 2009	Interviews, if necessary
November - December 2009	Selected Firm Notified
November - December 2009	Negotiation of Agreement
January – February 2010 (Estimated)	SAWS Board Approval and Award
January – February 2010 (Estimated)	Non-Selection Notices mailed
January – February 2010 (Estimated)	Start Work

These dates are subject to change.

II. SELECTION PROCESS

a. Selection

The San Antonio Water System (SAWS) will evaluate all SOQs according to a two-tier process. The first tier is the Technical Evaluation Committee and the second tier is the Selection Committee.

The Technical Evaluation Committee will review, evaluate, and rank the SOQs according to a numerical scoring system based on the responses to the criteria listed below. Those firms deemed most qualified by the Technical Evaluation Committee will be forwarded to a Selection Committee.

The Selection Committee will review the SOQs forwarded for final selection and recommendation for award. The Selection Committee may select two or more firms to be interviewed, based wholly on qualifications. The successful firm may expect notification late August– early September.

b. Interview

In the event that interviews are deemed necessary, the Respondents will provide clarification regarding the submittal with respect to their qualifications and their understanding of the solicitation’s scope of service.

c. Summary of Evaluation Criteria

- Qualification and Subject Matter Expertise 30 points
- Similar Prior Project Experience 25 points
- Project Approach 15 points
- Responsiveness 15 points
- SMWB Participation 15 points
- Total Points / Percentage 100 points

III. COMMUNICATION

a. Restrictions

- i. Respondents or their representatives are prohibited from communicating with any City of San Antonio officials regarding the RFQ from the time the RFQ is released until it has been acted upon by the Board of Trustees to include:
  - City Council members (as defined by the City of San Antonio Ethics Code),
  - City Council member’s staff, and
  - San Antonio Water System (SAWS) Board of Trustees
- ii. Respondents or their representatives are prohibited from communicating with SAWS employees regarding this RFQ, except as provided under TECHNICAL QUESTIONS, from the time the RFQ is released until the contract is awarded.
- iii. This includes “thank you” letters, phone calls, emails, and any contact that results in the direct or indirect discussion of the RFQ submitted by Respondents.

- iv. Violation of this provision by the Respondent and/or their agent may lead to disqualification of the Respondent's proposal from consideration.
- b. Pre-submittal Conference  
No pre-submittal conference is currently scheduled.
- c. Technical Questions
  - i. How to Submit  
Respondents may submit technical questions concerning the services in this RFQ, in writing; however electronic inquiries by e-mail or fax will be accepted.
  - ii. Contact:  
Marc Ripley Contract Administrator  
San Antonio Water System  
2800 U.S. Hwy 281 North, Suite 171  
San Antonio, TX 78212  
Email: [mripley@saws.org](mailto:mripley@saws.org)  
Fax to 210-233-4609
  - iii. Deadline for Questions  
To allow sufficient time for the distribution of answers and addenda, questions regarding this RFQ received after 04:00 PM Central Time on October 26, 2009 may not be answered.
  - iv. Questions Must be Written  
Verbal questions are not permitted other than as described by this section and during interviews, if any.
  - v. Identify Request in Communication  
All submitted questions or information requests shall be clearly identified with the solicitation number, name, and identify query type in the subject line or title. (ie. "Questions," "Clarification Request," "Status Update Request," or other form of request.)
- d. SMWB Questions  
Respondents and/or their agents may contact the SAWS SMWB Program Manager Ruby A. Perez-Webb, 210-233-3420 for assistance or clarification with issues specifically related to the **Small, Minority, and Woman Business** (SMWB) Program policy and/or completion of the Good Faith Effort Plan.
- e. Submittal or Status Questions  
Marc Ripley, Contract Administrator is the point of contact for this RFQ. Please email, [mripley@saws.org](mailto:mripley@saws.org) or send a fax 210-233-4609 to obtain answers to questions regarding this solicitation request.

Status information regarding this RFQ after the due date is available at the [www.saws.org](http://www.saws.org) website under "Business Center".

If the website does not provide sufficient information, please email the RFQ point of contact for assistance.

f. Clarification of Submittals

SAWS reserves the right to contact any respondent should clarification be required after responses are opened. SAWS also reserves the right to further negotiate with any respondent when it is deemed necessary by SAWS.

IV. SUBMITTING A RESPONSE

a. Deadline

SOQs are due no later than 4:00 P.M. Central Time on November 04, 2009.

b. Submission

- i. Submission of SOQs – One unbound original and Seven (7) copies must be date and time stamped in at:  
San Antonio Water System  
Attn: Contract Administration  
Customer Center Building  
2800 U.S. Hwy 281 North, Suite 171  
San Antonio, Texas 78212  
(Please note Exhibit “F” SAWS MAP)
- ii. Other than stated above, responses submitted via any form of electronic transmission, such as electronic mail, or facsimile, will not be considered.
- iii. Packages containing responses must be clearly labeled with the solicitation number and name.
- iv. The original response to this RFQ request shall be clearly marked “ORIGINAL” on document cover and on signature sheet.
- v. Responses are limited to a maximum of 25 pages per response. Each printed side is equivalent to a single page. Requested forms provided with this RFQ do not count to the page limit.
- vi. Responses should be clear, concise, and complete. They should be submitted using an 8 ½” by 11” portrait format. Illustrations or diagrams, if required, may be submitted on 11” by 17” sheets but must neatly fold allowing for the response to fit within 8 ½” by 11”. These pages will count towards the page limit amount.
- vii. Responses, except as requested for the unbound original, must be securely bound by any means except by 3-ring binders and paper/binder clips.
- viii. If the submittal to this RFQ is by any means other than personal delivery, then it is the Respondent’s sole responsibility to ensure the submittals are delivered to the exact location by the time specified.
- ix. Submissions by personal delivery - Allow fifteen (15) minutes for check-in with the guard. SAWS map attached.
- x. By submission of a response, the Respondent acknowledges that it has read and thoroughly understands the Scope of Service, agrees to all terms and conditions stated herein, and acknowledges that it can perform all tasks as required.

c. Response Format:

The response shall be organized as follows and each section shall be titled accordingly.

i. Response Checklist Form

Complete and include the response checklist within the submittal. Verify that the checklist is signed and that all documents on the checklist have been included with the response.

ii. Respondent Questionnaire Form

The Respondent Questionnaire captures general information regarding the firm submitting qualifications in response to this RFQ. It also includes acknowledgements for the attached exhibits and addendums. The questionnaire is a required submittal and must be completed and included in the response.

iii. Statements Of Qualifications (SOQ):

Please include the following information in response:

1. Detail your qualifications and subject matter expertise regarding the scope of services

- a. Detail certifications, training, and expertise providing assessments for SCADA systems.
- b. Provide a narrative of your qualifications indicating your level of knowledge of SCADA systems as applicable to the detailed scope of services.
- c. Demonstrate your understanding of the project scope
  - Provide a summary of project scope(s)
- d. Provide a detail of key personnel qualifications and experience
  - Provide a team organization chart
  - Provide a resume for each team member to include expertise directly related to the scope of services (no more than 2 pages each)
  - Detail each sub-consultant's unique qualifications (no more than 1 page each)
  - For each team member identified, indicate their availability for this project

2. Narrative of Similar prior project experience

- a. Provide a brief description of projects you have completed which are similar.
- b. Include project locations

3. Statement of Project Approach

- a. Please specify your firm's approach on completing the scope of services for the Project(s)
- b. Describe how your approach would be unique to your firm
- c. Describe how your approach best addresses SAWS' needs

- d. Provide a Narrative of your firm's Project Management ability as it applies to the scope of services
  4. Responsiveness
    - a. Discuss your commitment to quality and how it will be implemented to assure a successful project completion.
    - b. Provide examples of past performance, particularly with SAWS contracts
    - c. Provide listing of all SAWS Projects with SAWS projects indicating the SAWS manager(s) involved
    - d. Indicate the office location(s) where work will be conducted
- iv. Proof of Insurability: Exhibit "A"
1. Respondent shall submit a copy of a Certificate(s) of Insurance giving evidence of the various lines of Respondent's commercial insurance coverage currently in force; and
  2. Respondent shall also submit a letter on Respondent's Company stationary stating Respondent's commitment to provide the lines of insurance coverage required and at the limits of coverage specified in Exhibit "A" if awarded a contract under this RFQ..
- v. Good Faith Effort Plan: Exhibit "B"
- Policies on Equal Employment Opportunity and SMWB
1. Equal Employment Opportunity Requirements - The SAWS highly encourages Respondents to implement Affirmative Action practices in their employment programs. This means Respondents should not discriminate against any employee or applicant for employment because of race, color, national origin, religion, sex, age, handicap, or political belief or affiliation.
  2. All Small, Minority, or Woman Businesses (SMWB) responding to SAWS solicitations as either prime or sub contractors, consultants, or vendors will require certification as an SMWB. SMWB certification will be accepted from The South Central Texas Regional Certification Agency (SCTRCA). The Good Faith Effort Plan (GFEP) which is required with submittals of construction bids and professional services and other consulting SOQs includes an SMWB goal. In order to comply with the SMWB goal in the GFEP, all firms submitted as SMWB must provide a copy of their certification certificate. If you have questions, please contact the SMWB contact listed in section titled "COMMUNICATION."
  3. The SAWS Board of Trustees has adopted a policy to establish and oversee a program that will support the inclusion of small, minority and woman-owned businesses (SMWB). It is the policy of SAWS that it will ensure that small, minority, and woman-

owned businesses have an equal opportunity to receive and participate in SAWS contracts. It is our policy to:

- Ensure nondiscrimination in the award and administration of SAWS contracts;
  - Create a level playing field on which SMWBs can compete fairly for SAWS contracts;
  - Ensure that only firms that fully meet small, minority, and woman-owned business eligibility standards are permitted to participate as SMWBs.
4. SAWS Board of Trustees has approved overall goals for construction, professional services, and procurement contracts. The overall professional services goal for this project is 25%.
  5. The SMWB goal is expressed as a percentage of the total dollar amount of the contract going to SMWBs for those areas which the Respondent has subcontracted or anticipates to subcontract, including any future contract amendments. The goal shall also apply to contract amendments that require work beyond the scope of services originally required to accomplish the project.
  6. The Respondent agrees to employ good faith efforts to carry out this policy through award of sub-consultant contracts to small, minority, and/or woman-owned businesses to the fullest extent possible. SAWS Respondents are expected to solicit bids from available SMWBs on contracts which offer subcontracting opportunities.
  7. Respondents for this contract are asked to make good faith efforts to meet or exceed the goal for SMWB participation. Respondents must satisfy the good-faith effort requirements by documenting the achievement of the overall goal for professional services on the SMWB Good Faith Effort Plan or completing all sections of the SMWB Good Faith Effort Plan and documenting good faith efforts to meet the goal in order to be approved by the SMWB Development Officer as part of the response submittal prior to the award of the contract. Should the Good Faith Effort Plan not be submitted, the response may be considered non-responsive.
  8. Adherence to Affirmative Action and Small, Minority and Women Business (SMWB) participation. SAWS highly encourages applicants in those instances when joint venturing and/or subcontracting is appropriate to form joint ventures and/or provide subcontract opportunities to small, minority and women owned firms. Accordingly, the SAWS Good Faith Effort Plan will be used to report SMWB participation. The Good Faith Effort Plan format is attached as Exhibit "B". This form is required and considered part of the response to the RFQ.

- vi. Conflict of Interest Questionnaire: Exhibit “C”  
Ethics Policy and Disclosure

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 SAWS shall file a completed Conflict of Interest Questionnaire (CIQ) with SAWS.

The CIQ will be submitted as part of the response to this RFQ from SAWS. The CIQ is attached as Exhibit “C”, or is available from the Texas Ethics Commission at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

Please consult your own legal advisor if you have questions regarding the statute or form. This form is required and is considered part of the response to this RFQ.

- vii. Security Procedures: Exhibit “D”  
Respondent must acknowledge the requirements in this exhibit on the Respondent Questionnaire Form.
- viii. Sample Contract: Exhibit “E”  
The Contract terms and conditions are attached for review purposes only. Respondent must acknowledge the contract terms and conditions on the Respondent Questionnaire Form.

d. Contract Requirements after award:

- The Certificates of Insurance must be submitted with the signed contract returned to SAWS. The certificates of insurance must meet the insurance requirements outlined in Exhibit “A” – “Insurance Specifications” attached to the contract. The certificates of insurance must include the contract number, the name of the project, and the job number.
- A “Corporate Authorization Resolution” listing by name or position the individuals authorized to contractually bind the company must accompany the signed contract returned to SAWS.

## V. OTHER REQUIREMENTS

Other key requirements prospective consultants should note are as follows:

- a. Unresolved issues with SAWS may affect your competitiveness.
- b. All contracts will require the provision for a "Right-to-Audit" clause.
- c. The Fringe Benefit Multiplier submitted by the consultant during negotiations will be examined for appropriateness. The Fringe Benefit Multiplier is subject to an audit. Payments will be adjusted accordingly.
- d. The SAWS shall retain the right to approve or disapprove all sub-consultant selections on all projects.
- e. The SAWS shall retain the right to approve or disapprove any changes/variances of proposed sub-consultants and their related percentage of work "as proposed" from the original submittal form of the selected Respondents.

- f. All resulting contracts from this solicitation will be required to define and provide supporting documentation for reimbursable costs with no additional markup applied.

## VI. RESERVATION OF RIGHTS

SAWS reserves the right to:

- Reject any and all SOQs received;
- Issue a subsequent RFQ;
- Cancel the entire RFQ;
- Remedy technical errors in the RFQ process;
- Negotiate with any, all, or none of the Respondents to the RFQ;
- Waive informalities and irregularities;
- Accept multiple SOQs;
- Make multiple recommendation(s) to the Board;
- Request additional information or clarification;

### a. OWNERSHIP OF SOQS

All responses and their contents will become the property of SAWS.

### b. NO REIMBURSEMENT FOR SOQS

SAWS will not reimburse Respondents or sub-consultants for any costs associated with any travel and/or per diem incurred in any presentations associated with the selection process.

### c. NO GUARANTEE OF CONTRACT

This RFQ does not commit SAWS to enter into a contract, nor does it obligate it to pay any costs incurred in the preparation and submission of SOQs or in anticipation of a contract.

## VII. ATTACHMENT LISTING

### a. Response Forms

Forms to include with the submittal

- i. Response Checklist
- ii. Respondent Questionnaire
- iii. Exhibit "A" – SAWS Standard Insurance Specifications
- iv. Exhibit "B" – Good Faith Effort Plan
- v. Exhibit "C" – Conflict of Interest

### b. Informational Attachments

Not required in submittal.

- i. Exhibit "D" – Security Procedures
- ii. Exhibit "E" – Contract (Review Only)
- iii. Exhibit "F" – SAWS Location Map

# SUBMITTAL RESPONSE CHECKLIST

Project Name: \_\_\_\_\_

To which of the project(s) are you providing SOQ(s)?

Use this checklist to ensure that the proposal is complete by checking off each item included with your response. Sign and date this form and include this page with each proposal.

- This Checklist
- Respondent Questionnaire
- Statements Of Qualifications (Responses Per Section IV. c.)
- Proof of Insurability Exhibit “A” – Letter from Insurance Provider and Copy of Current Certificate of Insurance
- Exhibit “B” – Good Faith Effort Plan
  - Brief description of Affirmative Action Program
  - Copy of Certification Certificate
- Exhibit “C” – Conflict of Interest Questionnaire
- Acknowledge Addendums:

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I certify that the proposal submitted includes the items as indicated above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title



## RESPONDENT QUESTIONNAIRE

**PROJECT NAME:** \_\_\_\_\_

**Instructions:** The Respondent Questionnaire is a required questionnaire. Complete the questionnaire by inserting the requested information. Do not modify or delete the questions.

### **GENERAL INFORMATION**

- 1. Respondent Information:** Provide the following information regarding the Respondent.  
(NOTE: Co-Respondents are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal includes Co-Respondents, provide the required information in this Item #1 for each Co-Respondent by copying and inserting an additional block(s) before Item #2.)

Respondent Name: \_\_\_\_\_

(NOTE: Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Social Security Number or Federal Employer Identification Number: \_\_\_\_\_

- 2. Contact Information:** List the one person who SAWS may contact concerning your proposal or setting dates for meetings.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_

Email: \_\_\_\_\_

- 3. Identify the principal contact person authorized to commit the Respondent to a contractual agreement.**

\_\_\_\_\_  
\_\_\_\_\_

- 4. Does Respondent anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?**

Yes  No

5. Is Respondent authorized and/or licensed to do business in Texas?

Yes  No  If "Yes", list authorizations/licenses.

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6. **Affirmative Action** - Respondent agrees to adhere to the EEO requirements contained in the RFQ section IV, sub-section viii. entitled "Good Faith Effort Plan."

Yes  No  If "No", state reason.

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7. **Debarment/Suspension Information:** Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity?

Yes  No  If "Yes", identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

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8. **Bankruptcy Information:** Has the Respondent ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

Yes  No  If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

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9. Provide any other names under which Respondent has operated within the last 10 years.

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10. **Litigation Disclosure:** Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required in the Litigation Disclosure questions may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.

- a. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Yes  No

- b. Have you or any member of your Firm or Team to be assigned to this engagement been terminated (for cause or otherwise) from any work being performed for the San Antonio Water System or any other Federal, State or Local Government, or Private Entity?

Yes  No

- c. Have you or any member of your Firm or Team to be assigned to this engagement been involved in any claim or litigation with the San Antonio Water System or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Yes  No

If you have answered “Yes” to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

#### 11. Compliance Agreement:

**Nondisclosure:** No information obtained by Prospective Consultant from SAWS shall be disclosed by Prospective Consultant to any third party. In the event Prospective Consultant is subject to the Texas Public Information Act, upon receipt of a request for any information obtained by Prospective Consultant, Prospective Consultant shall provide notice to SAWS of the request along with a copy of the request, and give SAWS the opportunity to respond to the request prior to its release by Prospective Consultant.

**No Lobbying and Compliance with Law.** During the selection process for the project named in this RFQ, Prospective Consultant agrees to comply with all applicable laws and regulations, including but not limited to restrictions against direct or indirect lobbying of public officials. Prospective Consultant agrees not to make or permit to be made any improper payments, or to perform any unlawful acts.

This agreement shall be construed to be enforceable to the maximum extent permitted by law.

Failure to complete this question or comply with its terms may subject this firm to elimination from the selection process at any time.

Does the Respondent agree to the above?

Yes  No

12. **Security Procedures:** Respondent acknowledges having read the security procedures in Exhibit “D” and understands the requirements. Respondent is prepared to perform at their own expense background security checks on their employees, or the employees of their consultants or sub-consultants if requested by SAWS.

Yes  No

13. **Contract Terms and Conditions:** Respondent acknowledges having read the contract attached to this RFQ. By responding to this RFQ, Respondent agrees to these terms and conditions.

No Exceptions  Exceptions  If “Exceptions”, they must be submitted with the proposal. Respondents shall submit exceptions with proposed alternative language to SAWS as an attachment accompanying this questionnaire.

Exceptions will not be accepted after the proposal due date and time. At the sole discretion of SAWS, the type and nature of exceptions may be grounds for disqualification.

14. **Addendums:** Each Respondent is required to acknowledge receipt of all addendums.

None  Yes  If “Yes”, Identify.

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The information provided above is true and accurate to the best of my knowledge. Furthermore, we understand that failure to complete the Respondent Questionnaire may subject this firm to elimination from the selection process.

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Signature

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Date

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Printed Name

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Title

**Exhibit “A”- SAWS STANDARD INSURANCE SPECIFICATIONS**

1. Commencing on the date of this Contract, the Consultant shall, at his own expense, purchase, maintain and keep in force such insurance as will protect him and the San Antonio Water System (“SAWS”) and the City of San Antonio (“the City”) and their employees and agents from claims, which may arise out of or result from his operations under this Contract, whether such operations are by himself, by any sub-consultant, supplier or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, including, without limitation, the following lines of insurance coverage:

- a. Workers' Compensation (WC) insurance that will protect the Consultant, SAWS and the City from claims under statutory Workers' Compensation laws, disability laws or such other employee benefit laws and that will fulfill the requirements of the jurisdiction in which the work is to be performed.

This line of insurance coverage shall be endorsed to provide a Waiver of Subrogation in favor of SAWS and the City with respect to both this line of insurance coverage and the Employers' Liability (EL) insurance (as specified immediately below in section 1.b.).

- b. Employers' Liability (EL) insurance (Coverage B under standard Workers' Compensation policy) that will protect the Consultant, SAWS and the City for damages because of bodily injury, sickness, disease of vendor's employees apart from that imposed by Workers' Compensation laws.

The employers' liability insurance shall have minimum limits of liability of not less than:

\$ 1,000,000.00	Bodily Injury by Accident
1,000,000.00	Bodily Injury by Disease - Each Employee
1,000,000.00	Bodily Injury by Disease - Policy Limit

- c. Commercial General Liability (CGL) insurance that will protect the Consultant, SAWS and the City from claims for damages because of bodily injury, personal injury, sickness, disease or death and insurance that will protect the Consultant, SAWS and the City from claims for damages to or destruction of tangible property of others, including loss of use thereof.

This line of insurance coverage shall:

- Cover independent contractors;
- Not include any exclusions relating to blasting, explosion, collapse of buildings or damage to underground property where applicable;
- Afford coverage for Products Liability and/or Completed Operations and, Contractual Liability.

The minimum limits of liability for this line of insurance coverage shall be:

\$ 1,000,000.00	Occurrence Limit
2,000,000.00	General Aggregate
2,000,000.00	Products/Completed Operations Aggregate
1,000,000.00	Personal and Advertising Injury
1,000,000.00	Contractual Liability

This line of insurance coverage shall be endorsed:

- Naming SAWS and the City as an Additional Insured; and
  - To provide a Waiver of Subrogation in favor of SAWS and the City.
- d. Commercial/Business Automobile Liability (AL) insurance that will protect the Consultant, SAWS and the City from claims for damages arising out of the maintenance, operation, or use of any owned, non-owned or hired vehicles.

Minimum limits of liability for bodily injury and property damage combined shall be not less than \$1,000,000.00 per each occurrence.

This line of insurance coverage shall be endorsed:

- Naming SAWS and the City as an Additional Insured; and
  - To provide a Waiver of Subrogation in favor of SAWS and the City.
- o **Professional Liability** (errors and omissions) insurance with minimum coverage limits of \$1,000,000 per claim, \$1,000,000 in the aggregate **and**, if written on a “Claims Made” form, the CONSULTANT must maintain this line of insurance coverage for a period of at least twenty-four (24) months after the date of Contract termination. (On the Certificate of Insurance filed for this Project insert the following *“Policy is written on a “Claims Made” form’* and the coverage *Retro-date*)
2. Consultant shall require all Sub-consultant's to carry insurance coverage appropriate to their scope of Work.
  3. The Consultant shall furnish a completed Certificate of Insurance (“Certificate”), which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon.
  4. The lines of insurance coverage that are required under these Specifications shall be written so that SAWS and the City will be notified in writing in the event of cancellation, restrictive endorsement or non-renewal at least thirty (30) days prior to such action.
  5. SAWS shall be shown as the Certificate Holder in the Certificate Holder section located in the bottom half of the standard ACORD Certificate forms as follows:

San Antonio Water System  
Attention: Contract Administration Division  
P. O. Box 2449  
San Antonio, Texas 78298-2449

6. Certificate(s) of Insurance shall be filed with the System 10 days prior to the SAWS Board of Trustee's award of the Contract. The SAWS Project number(s) along with its Descriptor Caption shall be included in the Description of Operations section located in the bottom half of the standard ACORD Certificate forms.

Certificates shall be mailed to SAWS directly to:

San Antonio Water System  
Attention: Contract Administration  
P. O. Box 2449  
San Antonio, Texas 78298-2449

Consultant shall be responsible for obtaining Certificates of Insurance from the first tier Sub-consultant, and upon request furnish copies to SAWS.

7. Separate Certificate(s) of Insurance shall be filed with the City of San Antonio 10 days prior to the SAWS Board of Trustee's award of the Contract. The SAWS Project number(s) along with its Descriptor Caption shall be included in the Description of Operations section located in the bottom half of the standard ACORD Certificate forms.

Certificates shall be mailed to the City of San Antonio directly to:

City of San Antonio  
Attention: Risk Management  
P.O. Box 39966  
San Antonio, TX 78283-3966

A copy of the certificate of insurance provided to the City of San Antonio shall be provided to SAWS at the same time.

8. Consultant is responsible for all deductibles under all of the insurance policies required by these Specifications.
9. The stated limits of insurance required by these Specifications are **MINIMUM ONLY** and it shall be the Consultant's responsibility to determine what limits are adequate and the length of time this coverage shall be maintained; the insurance limits are not a limit of the Consultant's liability.

These minimum limits may be basic policy limits or any combination of basic limits and umbrella limits.

SAWS acceptance of Certificate(s) of Insurance that in any respect do not comply with these Specifications does not release the Consultant from compliance herewith.

10. Consultant agrees that all insurance policies required by these Specifications shall be with insurance companies, firms or entities that have an A.M. Best rating of "A- ("A"-minus)" and a Financial Size Category of a "VII" or better.

All insurance policies shall be of an "Occurrence" type except for the Professional Liability line of coverage.

11. **SURVIVAL**

Any and all representations, conditions and warranties made by Consultant under this Contract including, without limitation, the provisions of Section 1.b., 1.c. and 1.d. of these Insurance Specifications are of the essence of this Contract and shall survive the execution and delivery of it, and all statements contained in any document required by SAWS whether delivered at the time of the execution, or at a later date, shall constitute representations and warranties hereunder.



**EXHIBIT "B" - GFEP**

**GOOD FAITH EFFORT PLAN FOR  
PROFESSIONAL AND OTHER CONSULTING SERVICES  
SUB-CONTRACTS**

**FOR**

**NAME OF PROJECT:** \_\_\_\_\_

**SECTION A - PROPOSER INFORMATION:**

**Name of Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_ **Telephone:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Is your firm Certified:** Yes \_\_\_\_\_ No: \_\_\_\_\_ **If certified, Certification Number:** \_\_\_\_\_

**Type of Certification:** \_\_\_\_\_ **AABE** \_\_\_\_\_ **DIBE** \_\_\_\_\_ **MBE** \_\_\_\_\_ **WBE**  
 \_\_\_\_\_ **SBE** \_\_\_\_\_ **VBE**

**Prime's Percent Participation on this Project:** \_\_\_\_\_ %

1. List ALL SUBCONTRACTORS/SUPPLIERS that will be utilized on this project/contract.

Name & Address of Company	Scope of Work/Supplies to be Performed/Provided by Firm	% Level of Participation on this Project	If Firm is Certified, Provide Certification Number and attach copy of Certification Affidavit	Type Certification
1.				
2.				
3.				
4.				

**SECTION B. – SMWB COMMITMENTS**

The SMWB goal on this project is 25 %

1. The undersigned proposer has satisfied the requirements of the RFQ/RFP specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The proposer is committed to a minimum of \_\_\_\_ % SMWB utilization on this contract.

\_\_\_\_\_ The proposer (if unable to meet the SMWB goal of \_\_\_\_%) is committed to a minimum of \_\_\_\_\_% SMWB utilization on this contract. *(If contractor/consultant is unable to meet the goal, please fill out Section C and submit documentation demonstrating good faith efforts).*

2. Name and phone number of person appointed to coordinate and administer the SMWB requirements on this project.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**IF THE SMWB GOAL WAS MET, PROCEED TO AFFIRMATION AND SIGN THE GFEP. IF GOAL WAS NOT MET, PROCEED TO SECTION C.**

**SECTION C – GOOD FAITH EFFORTS (Fill out only, if the SMWB goal was not achieved).**

1. List all firms you contacted with subcontracting/supply opportunities for this project that will not be utilized for the contract by choice of the proposer, subcontractor, or supplier. Written notices to firms contacted by the proposer for specific scopes of work identified for subcontracting/supply opportunities must be provided to subcontractor/supplier not less than five (5) business days prior to bid/proposal due date. The following information is required for all firms that were contacted of subcontracting/supply opportunities.

Name & Address of Company	Scope of Work/Supplies to be Performed/Provided by Firm	Is Firm SMWB Certified?	Date Written Notice was Sent & Method (Fax, Letter, E-Mail, etc.)	Reason Agreement was not reached?
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

(Use additional sheets as needed)

In order to verify a proposer's good faith efforts, please provide to SAWS copies of the written notices to all firms contacted by the proposer for specific scopes of work identified in relation to the subcontracting/supply opportunities in the above named project. Copies of said notices must be provided to the Business Development Liaison with five (5) business days after the bid is due. Such notices shall include information on the plans, specifications, and scope of work.

2. Did you attend the pre-proposal conference scheduled for this project? \_\_\_\_ Yes \_\_\_\_ No
3. List all SMWB listings or directories, contractor associations, and/or any other associations utilized to solicit SMWB Subcontractors/suppliers.

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4. Discuss efforts made to define additional elements of the work proposed to be performed by SMWBs in order to increase the likelihood of achieving the goal:

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5. Indicate advertisement mediums used for soliciting bids from SMWBs. (Please attach a copy of the advertisement(s):

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**AFFIRMATION**

I hereby affirm that the above information is true and complete to the best of my knowledge. I further understand and agree that, this document shall be attached thereto and become a binding part of the contract.

Name and Title of Authorized Official:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE:**

This Good Faith Effort Plan is reviewed by SAWS Contracting Department. For questions and/or clarifications, please contact the SMWB Program Manager at (210) 233-3420. If the SMWB goal was not met, the Business Development Liaison will evaluate the "good faith efforts" of a firm.

## DEFINITIONS:

**Prime Consultant/Contractor:** Any person, firm partnership, corporation, association or joint venture which has been awarded a San Antonio Water System contract.

**Sub-consultant/contractor:** Any named person, firm partnership, corporation, association or joint venture identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing under contract with a prime consultant/contractor on a San Antonio Water System contract.

**Small, Minority and Woman Business (SMWB):** Includes all business enterprises inclusive of sole proprietorship, partnerships, corporations and all other such legal entities that are either classified as small, or are owned, operated and controlled by minority group members, women, or disabled individuals.

**Small Business Enterprise (SBE):** A corporation, partnership, sole proprietorship or other such legal entity which is owned and operated and which is less than 20% of the U.S. Small Business Administration (SBA) size standard for a small business, except in cases where the reduced definition drops below \$1 million average gross receipts (as based on three years of sales) or less than 100 employees.

**Minority Business Enterprise (MBE):** A corporation, partnership, sole proprietorship or any other such legal entity which is owned, operated and controlled by a minority group member(s) who, when combined, have 51 percent ownership. The minority group member(s) must have operational and managerial control, interest in capital, and expertise and earnings commensurate with the percentage of minority ownership.

For purposes of the SMWB program, the following are recognized a minority groups:

- a. **African American** – Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian or West Indian.
- b. **Hispanic American** – persons of Mexican, Puerto Rican, Cuban, Spanish or Central or South American origin.
- c. **Asian-Pacific American** – persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- d. **Asian-Indian American** – persons whose origins are from India, Pakistan, Bangladesh or Sri Lanka.
- e. **American Indian/Native American** – persons having no less than 1/16 percentage origin in any of the American Indian 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.

**Women Business Enterprise (WBE):** A corporation, partnership, sole proprietorship or other such legal entity which is owned and operated by women who, when combined, have 51 percent ownership. The women must have operational and managerial control, interest in capital, and expertise and earnings commensurate with the percentage of women ownership.

**African American Business Enterprise (AABE):** A corporation, partnership, sole proprietorship or other such legal entity which is owned and operated by an African American minority group member(s) who, when combined, have 51 percent ownership. The African American group member(s) must have operational and managerial control, interest in capital, and expertise and earnings commensurate with the percentage of ownership.

**Disabled Individual Business Enterprise (DIBE):** A corporation, partnership, sole proprietorship or other such legal entity which is owned and operated by a disabled individual who has at least 51 percent ownership. Disabled means a person (a) with one or more disabilities as defined by the Americans with Disabilities Act (ADA) and amendments thereto, (b) having a record of such disabilities, and (d) regarded as having such disabilities.

**Veteran Business Enterprise (VBE):** A corporation, partnership, sole proprietorship or other such legal entity which is owned and operated by an individual who served in the United States active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, and who has at least 51 percent ownership. *This certification should not be confused with the Service Disabled Veteran designation available through the federal Small Business Administration.*

**Joint Venture:** A limited association of two or more persons to carry out a single business enterprise for profit, for which purpose they combine their property, money, efforts, skills and knowledge.

# EXHIBIT "C"- CONFLICT OF INTEREST QUESTIONNAIRE

## For vendor or other person doing business with local governmental entity

**This questionnaire reflects changes made to the law by H.B. 1491, 80<sup>th</sup> 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 7<sup>th</sup> business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Governmental 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 doing business with local governmental entity.

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 7<sup>th</sup> 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 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

## Exhibit “D” - SECURITY PROCEDURES

Consultant shall ensure a Prime Contractor Data Form (PCDF) and a Background Screening Letter (provided by SAWS Security) is properly completed for all employees performing work under this Agreement and on file with the SAWS Security Office prior to work commencement. Sub-consultants performing work must be listed on the PCDF. Consultant shall be responsible for the accuracy of information on the PCDF and for obtaining any and all required items (badges and parking tags) necessary to fulfilling the work under this Agreement. The PCDF must be sent electronically to [securitygroup@saws.org](mailto:securitygroup@saws.org). Consultant shall advise the SAWS Project Manager of any employee terminations or changes to personnel performing work under this Agreement and Consultant shall immediately turn in any and all badges and/or parking tags of employees who are terminated or no longer performing work under this Agreement. If there are any changes in the information contained in the PCDF or the Background Screening Letters, Consultant shall immediately notify the SAWS Project Manager and provide updated PCDF and Background Screening Letters, with copies to [securitygroup@saws.org](mailto:securitygroup@saws.org).

Consultant and its employees and agents shall obtain a SAWS photo identification badge (Contractor's Badge) and parking tag, if necessary, prior to any work on SAWS property, which shall be used only for purposes necessary to perform the work under this Agreement. SAWS Badge Office hours are Monday and Friday 1:00 pm to 5:00 pm (hours are subject to change). Security Staff can be contacted at (210) 233-3760 or (210) 233-3619. A replacement fee shall be charged to replace any lost or damaged badges or parking tags. As a condition of final payment, Consultant shall return all badges and parking tags to the Security Office. In the event Consultant fails to return all security badges and parking tags, in addition to any other rights or remedies to which SAWS may be entitled at law or in equity, SAWS may withhold from payment to the Consultant the sum of \$500.00 dollars per badge or parking tag as liquidated damages. Consultant agrees that the actual amount of damages for failure to return the badges and/or parking tags are difficult to determine, and the liquidated damages herein are not a penalty, but are a reasonable estimate of the costs and expenses that may be incurred by SAWS for failure to return the badges or parking tags.

Certain designated SAWS facilities (list with SAWS Security) require a SAWS employee to physically escort Consultant at all times. SAWS may, in its sole discretion, waive the escort requirements if the PCDF and a “clean” Background Screening Letter, signed by an authorized representative of Consultant are approved by SAWS Security.

Sub-consultants must always be under escort of the Consultant while performing work on any SAWS designated primary facility (list with SAWS Security.) Sub-consultants must display either a company photo badge with name or a valid drivers license at all times while working on any SAWS property. Consultant is solely responsible for the actions of its employees, agents, contractors and consultants.

Due to changing security environments, Consultant MUST be prepared for additional security requirements at its expense, including background checks. Any person found to have an unacceptable background check (as determined by SAWS review of submitted paperwork or other information provided to or obtained by SAWS) will not be allowed to perform work under this Agreement or on SAWS facilities. Notwithstanding anything herein to the contrary, any provisions in these Security Procedures that may appear to give SAWS the right to direct Consultant as to details of doing any work under this Agreement or to exercise a measure of control over any security measures or such work shall be deemed to mean that Consultant shall follow the desires of SAWS in the **results** of the work or security measures only.

Advance coordination by Consultant with SAWS Security office for these security requirements is necessary to ensure no delays with timely performance of the work. In the event Consultant fails to comply with SAWS Security requirements, SAWS may, with no penalty or claim against SAWS, issue a Work Stoppage Order until the security violation (s) are remedied.

**EXHIBIT “E” – SAMPLE CONSULTING AGREEMENT**  
*SAMPLE ONLY: SAWS MAY NEGOTIATE FINAL AGREEMENT*  
**SAN ANTONIO WATER SYSTEM**

AGREEMENT FOR

---

(the “Project”)

Contract No. \_\_\_\_\_

THIS IS A CONSULTING AGREEMENT (this “Agreement”) by and between

INSERT CONSULTANT NAME  
ADDRESS 1  
ADDRESS 2

(the “Consultant”), and San Antonio Water System, municipally-owned utility of the City of San Antonio in the State of Texas (the “Water System” or “SAWS”), and by which parties to this Agreement, in consideration of the mutual covenants set forth below and other good and valuable consideration (the mutuality, adequacy, and sufficiency of which are hereby acknowledged), hereby agree as follows:

1. Consulting.

(a) Consulting and Advisory Services. During the term of this Agreement, the Consultant will provide consulting and advisory services to the Water System in accordance with the highest professional standards. Consultant shall perform the services described on Exhibit B attached hereto and incorporated herein. The Consultant shall perform such duties in accordance with the time schedule attached hereto as Exhibit D and comply with the Security Procedures attached as Exhibit E. Acceptance of work of the Consultant by the Water System shall not constitute or be deemed a release of the responsibility, obligations or liability of the Consultant under this Agreement for any errors, omissions, defect in the design, drawings, specifications, documents, reports and work performed by the Consultant. Consultant will utilize only qualified personnel to perform the work under this Agreement. All of such work shall be under the direct supervision of properly licensed professionals as appropriate for the Project and work. **[If engineer seal required on study, add: All reports and completed documents submitted for final approval or issuance of a permit shall bear the seal with signature and date adjacent thereto of a professional engineer licensed in the State of Texas. Any document that is a draft or partial submittal shall bear an appropriate notice that it is a draft or partial submittal only.]**

(b) Compensation and Expenses. The Water System shall pay Consultant as set forth on the attached Exhibit A. If Consultant's services do not conform to the specifications stated on Exhibit B, as determined by Water System, Consultant shall promptly re-perform such services to the satisfaction of Water System at no additional charge to Water System.

(c) Independent Contractor. It is acknowledged and agreed that the Consultant is an independent contractor of the Water System and not an employee or agent or fiduciary of Water System, and each of the parties to this Agreement agrees to take actions consistent with the foregoing. Consultant is not being engaged to perform any fiduciary functions of Water System. Further, nothing in this Agreement shall be construed to create a partnership, joint venture, or other association between the parties.

(d) Water System's Responsibilities. Water System will use its reasonable best efforts to provide Consultant with all documentation and information in the possession of the Water System required to enable Consultant to provide the services, and will cause its employees and agents to cooperate with Consultant's reasonable requests in order to assist Consultant in providing the services.

(e) Work Papers. All final work product and work papers directly relating thereto delivered to Water System by the Consultant in connection with the performance of services pursuant to this Agreement, including public records obtained by the Consultant, shall be the property of the Water System whether or not in the possession of the Consultant, for use and re-use by the Water System, its agents, employees, contractors and consultants, as needed from time-to-time.

(f) Nondisclosure. The Water System has a proprietary interest in this Agreement and in the advisory and consulting services provided by Consultant. Accordingly, this Agreement, the services, and any information obtained by Consultant through Water System in connection with the performance of the services shall not be disclosed by Consultant to any third party. In the event Consultant is subject to the Texas Public Information Act, upon receipt of a request for any information obtained by Consultant in the performance of this Agreement, Consultant shall provide notice to Water System of the request along with a copy of the request, and give Water System the opportunity to respond to the request prior to its release by Consultant. In no event shall Consultant or any of its subconsultants provide or participate in any public presentations or prepare or present any papers for public dissemination concerning the Project, or with information obtained in connection with the Project, without receiving the prior written approval from the Water System, which approval may be withheld in the sole and absolute discretion of the Water System.

(g) Compliance with Law. In performing this Agreement, the Consultant agrees to comply with applicable laws and regulations, and to secure, pay for and comply with all permits, governmental fees, licenses, inspections, bonds, security or deposits necessary for proper execution and completion of the services. Consultant

agrees to not make or permit to be made any improper payments, or to perform any unlawful acts.

(h) Insurance. Consultant shall maintain and keep in force for the duration of this Agreement such insurance as set forth on Exhibit C of this Agreement, which is attached hereto and incorporated herein for all purposes as if fully set forth herein. Approval of insurance by the Water System shall not relieve or decrease the liability of the Consultant hereunder and shall not be construed to be a limitation of liability on the part of the Consultant. Consultant shall be responsible for all premiums, deductibles and self-insured retentions, if any, stated in the policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance. All endorsements naming the Water System and the City of San Antonio (the "City") as additional insureds, waivers, and notices of cancellation endorsements as well as the Certificates of Insurance shall indicate: San Antonio Water System, Contract Administration Division, 2800 US Hwy 281 North, San Antonio, Texas 78212.

(i) Right To Audit. Consultant agrees to maintain appropriate accounting records of costs, expenses, and payrolls of its employees and agents working on the Project for a period of three years after final payment for completed work has been made and all other pending matters concerning the Agreement have been closed. Consultant agrees that the Water System or its authorized representative shall have access during normal business hours to any and all books, documents, papers, and records of the Consultant which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits and examinations.

The Consultant further agrees to make the above requirement apply to any and all subconsultant agreements in which the Consultant has a contractual relationship for the services to be performed under the Agreement. All subconsultants shall agree that the Water System or its authorized representatives shall have access during normal business hours to any and all books, documents, papers, and records of the subconsultant which are directly pertinent to the services to be performed under the Agreement for the purposes of making audits and examinations.

(j) Equal Employment Opportunity/Minority Business Enterprise. The Consultant agrees not to engage in employment practices which have the effect of discriminating against any employee or applicant for employment; and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Specifically, the Consultant agrees to abide by all applicable provisions of the Nondiscrimination Clause and the Small and Minority Business Advocacy Clause as contained in the City of San Antonio's current Affirmative Action Plan on file in the City Clerk's Office. In the event non-compliance occurs the Consultant, upon written notification by the Water System, will commence compliance procedures within thirty (30) days.

(k) Subconsultants. The Consultant acknowledges that it is the policy of the Water System to assist in increasing the competitiveness and qualifications of Small, Minority, and Woman Businesses (SMWB) to afford greater opportunity for such groups to obtain and participate in Water System contracts. Consultant agrees to complete and submit a Good Faith Effort Plan as part of its response to the Water System's request for a proposal. Consultant shall take all reasonable steps to be in compliance with and maintain compliance with the minimum percentage participations for SMWB set out in Consultant's proposal to the Water System. Consultant shall maintain records of all SMWB contracts and programs and submit a Vendor/Subcontractor Report Form to the Water System when submitting pay requests to the Water System.

(l) Consultant's Warranty. The Consultant warrants that he has not employed or retained any company or person other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not for the purpose of soliciting or securing this Agreement paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach of this warranty, the Water System shall have the right to terminate this Agreement under the provisions of Section 2 below.

(m) Indemnification. Consultant agrees to and does hereby fully indemnify, defend, and hold harmless Water System and the City of San Antonio, and their respective members, agents, employees, officers, directors, trustees and representatives (collectively, "Indemnitees"), individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees (including, without limitation, attorneys' fees), fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including, without limitation, personal injury or death and property damage, incurred by, asserted against or made upon any of the Indemnitees arising out of, resulting from or related to the acts, commissions or omissions of Consultant, any agent, officer, director, representative, employee, consultant, contractor or subconsultant or subcontractor of Consultant, and their respective officers, agents, employees, directors, and representatives, while in the exercise or performance of the rights or duties under this Agreement. Consultant shall promptly advise the Water System in writing of any claim or demand against the Consultant or any of the Indemnitees which relates to or arises out of the Consultant's activities under this Agreement at Consultant's cost. Any of the Indemnitees shall have the right, at their option and at their own expense, to participate in such defense without relieving Consultant of any of its obligations under this paragraph. The terms and provisions of this Section 1(m) shall survive the expiration of the term or earlier termination of this Agreement. Nothing in this Section 1(m) shall be interpreted to constitute a waiver of any governmental immunity available under Texas law or any available defenses under Texas law.

(n) Default. In the event Consultant fails to perform its duties or obligations under this Agreement, Water System shall be entitled to any and all remedies available at law or in equity (including, without limitation, the recovery from Consultant of all losses and damages, whether actual, direct, consequential, liquidated or otherwise, and all reasonable attorneys' and other professional fees and costs suffered or incurred by the Water System arising from such default), and, in addition, the Water System shall have the right to terminate this Agreement by written notice as provided in Section 2 below. The Water System shall be entitled to recover reasonable attorneys' fees and costs of dispute resolution incurred in connection with enforcement of this Agreement. In addition, the Water System shall have the right to (1) take possession of all materials and work completed under this Agreement, (2) accept assignment of any sub-consultant agreements relating to this Agreement on terms and conditions acceptable to the Water System, and (3) recover from the Consultant and/or deduct from any sums then owed to the Consultant, all losses, damages, penalties and fines, whether actual or liquidated, direct, consequential and/or exemplary, and all reasonable attorneys' and other professional fees and costs suffered or incurred by the Water System by reason of or as a result of Consultant's default. Such amounts, together with interest on same at the highest rate allowed by law until paid in full, shall be binding on Consultant and are due upon demand. No action by the Water System shall constitute an election of remedies.

## 2. Term, Termination and Suspension.

(a) Term. The term of this Agreement shall be for the period provided in Exhibit D attached hereto and incorporated herein, beginning and ending on the dates provided in Exhibit D. In the event that Consultant has not completed the work specified on Exhibit B prior to the end of the term of this Agreement, in addition to any other remedies to which the Water System may be entitled, at law or in equity, Consultant shall pay to Water System, or the Water System may withhold from sums then due and owing the Consultant, the amount of \$ \_\_\_\_\_ per day as "Liquidated Damages" until such time as the work is completed to the Water System's satisfaction. It is hereby acknowledged and agreed that the Liquidated Damages to which the Water System is entitled to hereunder are a reasonable forecast of just compensation for the actual damages for delay of the Project caused by Consultant's failure to complete the work within the time allotted in this Agreement.

(b) Termination For Cause. Water System may terminate this Agreement at any time for "Cause" in accordance with the procedures provided below. Termination by Water System of this Agreement for "Cause" shall mean termination upon (i) the neglect, breach or inattention by Consultant of its duties hereunder, and such neglect, breach or inattention has not been cured within five (5) days after written notice thereof given by Water System to Consultant, (ii) the engaging by Consultant in willful or fraudulent conduct that is injurious to Water System, monetarily or otherwise, (iii) the failure by Consultant to otherwise perform its duties hereunder and such failure has not been cured within five (5) days after written notice thereof given by Water System to Consultant. Notice shall be deemed given as provided in Section 3(a) of this Agreement.

Upon such termination for cause, the Consultant shall not be entitled to any further compensation under this Agreement, except for the compensation which has been earned for services rendered by Consultant in accordance with this Agreement through the date of notice of such termination, subject to offset for damages as set forth in Section 1(n) above, and which shall be paid only after final completion of the work provided for under this Agreement by the Water System.

In the event termination for cause is not proper under this Section, the termination shall be deemed to constitute a termination for convenience as set forth in Section 2(c) below.

(c) Other Termination. The Water System may terminate this Agreement at any time for any reason upon thirty (30) days written notice to the Consultant. Upon termination of this Agreement, the Consultant will be entitled only to the compensation and expenses which have been earned for services rendered in accordance with this Agreement through the date of such termination. No termination of this Agreement shall impair or defeat those obligations set forth elsewhere in this Agreement which require either party to do or refrain from doing any specified act or acts after termination of this Agreement, or to perform any obligation which by its terms or normal meaning survives termination of this Agreement.

(d) Suspension. The Water System reserves the right to suspend work under this Agreement at any time and from time-to-time work for the convenience of the Water System by issuing a written notice of suspension, which notice outlines the reasons for the suspension and the then estimated duration of the suspension, but in no way will guarantee the total number of days of suspension. Such suspension shall take effect immediately upon the date specified in the notice and if no date is specified, the date of delivery of the notice of suspension to the Consultant. Upon receipt of a notice of suspension in excess of one hundred eighty (180) days, the Consultant shall have the right to terminate this Agreement by written notice to the Water System. Consultant may exercise this right to terminate any time after a suspension has continued for more than one hundred eighty (180) days, but before the Water System gives Consultant written notice to resume the work. Termination (under this paragraph) by Consultant shall be effective immediately upon the Water System's receipt of said written notice from Consultant.

(e) Winding Up. Upon receipt of a written notice of suspension or termination, unless the notice otherwise directs, Consultant shall immediately phase-out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to the Water System under this Agreement.

### 3. Miscellaneous.

(a) Notices. Any notice, communication or request under this Agreement to any of the parties shall be in writing and shall be effectively delivered if delivered

**personally or sent by overnight courier service (with all fees prepaid), or by facsimile as follows:**

If to Water System: San Antonio Water System  
2800 US Hwy 281 North  
San Antonio, Texas 78212  
Attn: Project Manager  
Fax: \_\_\_\_\_

With copy to: San Antonio Water System  
2800 US Hwy 281 North  
San Antonio, Texas 78212  
Attn: Frank Stenger-Castro, Vice President  
and General Counsel  
Fax: 210.233.5109

or to Consultant: (Consultant Name)  
(Address)  
(City, State, Zip)  
Attn: (Insert Name)  
Fax: \_\_\_\_\_

Any such notice, request, demand or other communication shall be deemed to be given if delivered in person, on the date delivered, if made by facsimile, on the date transmitted, or, if sent by overnight courier service, on the date sent as evidenced by the date of the bill of lading; and shall be deemed received if delivered in person, on the date of personal delivery, if made by facsimile, upon confirmation of receipt (including electronic confirmation), or if sent by overnight courier service, on the first business day after the date sent.

(b) Interest in Water System Agreements Prohibited. No officer or employee of the City shall have a financial interest, direct or indirect, in any Agreement with the Water System, or shall be financially interested, directly or indirectly, in the sale to the Water System of any land, materials, supplies or service, except on behalf of the City or Water System as an officer or employee. Any violation of this Section, with the knowledge, expressed or implied, of Consultant contracting with Water System shall render this Agreement voidable by the Board of Trustees or the President/Chief Executive Officer of the Water System.

(c) Gift Policy. Water System employees are prohibited from soliciting, accepting or agreeing to accept any gifts from outside sources. A copy of Water System's Policy 2-17 "Procedures for Gift and Meal Policy" is available upon request.

(d) Tax Matters. Consultant shall be solely responsible for payment of all taxes related to Consultant's provision of the services. A tax exempt certificate is

available upon request for the purchase of materials and goods only with regards to the contracted services of this Agreement.

(e) Assignment; Binding Effect. No assignment, transfer, or delegation of any rights or obligations under this Agreement by Consultant shall be made without the prior written consent of the Water System, which may be withheld in the sole and absolute discretion of the Water System. This Agreement shall be binding upon the parties to this Agreement and their respective legal representatives, heirs, devisees, legatees, or other successors and permitted assigns, and shall inure to the benefit of the parties to this Agreement and their respective legal representatives, heirs, devisees, legatees, or other permitted successors and permitted assigns.

(f) Interpretation; Captions. Whenever the context so requires, the singular number shall include the plural and the plural shall include the singular, and the gender of any pronoun shall include the other genders. Titles and captions of or in this Agreement are inserted only as a matter of convenience and for reference and in no way affect the scope for this Agreement or the intent of its provisions.

(g) Entire Agreement. This Agreement constitutes the entire agreement of the parties to this Agreement with respect to its subject matter, supersedes all prior agreements, if any, of the parties to this Agreement with respect to its subject matter, and may not be amended except in writing signed by the party to this Agreement against whom the change is being asserted. This Agreement consists of this document and attached Exhibits A, B, C, D and E, all of which are incorporated herein by reference for all purposes. Should any conflict arise between the terms of this document and the attached Exhibits, this document shall be controlling.

(h) No Waiver. The failure of any party to this Agreement at any time or times to require the performance of any provisions of this Agreement shall in no manner affect the right to enforce the same; and no waiver by any party to this Agreement of any provision (or of a breach of any provision) of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed either as a further or continuing waiver of any such provision or breach or as a waiver of any other provision (or of a breach of any other provision) of this Agreement.

(i) Governing Law; Jurisdiction. This Agreement has been entered in, and shall be governed by and construed in accordance with the laws of the State of Texas, without regard to principles of conflict or choice of law. This Agreement is performable in Bexar County and sole venue shall be in the courts of Bexar County, Texas.

(j) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement or its terms to produce or account for more than one of such counterparts.

(k) Non-Appropriation. Consultant agrees that the Water System has projected costs for this Agreement and Water System expects to pay all obligations of

this Agreement from projected revenues of the Water System. All obligations of the Water System are subject to annual appropriations by its Board of Trustees. Accordingly, notwithstanding anything in this Agreement to the contrary, in the event that the Water System should fail to appropriate funds to pay any of Water System's obligations under the terms of this Agreement, then the Water System's obligations under this Agreement shall terminate, and the Consultant's sole option and remedy shall be to terminate this Agreement by written notice to Water System, and neither the Water System nor the Consultant shall have any further duties or obligations hereunder, except those which expressly survive.

DULY EXECUTED and delivered by the parties to this Agreement, effective on the date counter signed by the Water System.

THE WATER SYSTEM:

San Antonio Water System

By: \_\_\_\_\_

Robert R. Puente  
President/Chief Executive Officer

\_\_\_\_\_  
Date

CONSULTANT:

Consultant Name

By: \_\_\_\_\_

Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## EXHIBIT “F” - SAWS LOCATION MAP



**To access the SAWS Customer Center building:**  
**From northbound U.S. 281:**

Take the St. Mary's St. / Mulberry Ave. exit. Continue on the access road through two traffic lights, crossing St. Mary's and Mulberry. After crossing Mulberry, the SAWS Customer Center is the third office building on the right. Turn right into the final driveway before the access road crosses over U.S. 281. The parking lot and main entrance are located on the north side of the building.

**To access the SAWS Customer Center building:**  
**From southbound U.S. 281:**

Take the Mulberry Ave. / St. Mary's St. exit. Before crossing Mulberry take the turnaround under U.S. 281. Traveling northbound on the access road, the SAWS Customer Center is the third office building on the right. Turn right into the final driveway before the access road crosses over U.S. 281. The parking lot and main entrance are located on the northside of the building.



**Please allow approximately 15 minutes for check-in at the guard's station.**