



SOLICITATION AND OFFER

City of New Braunfels
Purchasing
550 Landa Street
New Braunfels, Texas 78130

Solicitation Number: CSP 21-021
School Crossing Guard Services

- Invitation for Bid (IFB)
Competitive Sealed Proposal (CSP)

Date Issued: June 23, 2021

SOLICITATION

Proposals will be received at the address shown above until: 3:00 P.M. (Central Time), July 7, 2021. No public bid opening.
Proposals received after the time and date set for submission will be returned, unopened, upon request.
Respondents have a choice to submit a sealed Proposal at the Office of the City Secretary at 550 Landa Street, New Braunfels, TX 78130 and it must containing one (1) signed original hardcopy and one (1) in electronic format (USB) or submit an electronic Proposal submission through the BidNet Direct website: https://www.bidnetdirect.com/texas/city-of-new-braunfels.

For information regarding this solicitation, contact:
(NO collect calls, Telegraphic, E-mail, On-Line or Fax offers accepted)

Purchasing Representative
Barbara Coleman,
Purchasing Manager

E-mail: BCoeman@nbtexas.org
Phone: (830) 221-4389
Fax: (830) 608-2112

- 5% Proposal Bond Required: YES NO
100% Payment Bond Required: YES NO
100% Performance Bond Required: YES NO

OFFER

(This portion must be fully completed by Proposer.)

In compliance with the above, the undersigned offers and agrees to furnish any or all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein.

CONTRACT AWARD WILL INCLUDE ALL ASSOCIATED SOLICITATION DOCUMENTS, ATTACHMENTS, AND ADDENDA.

SIGNATURE IS MANDATORY; MANUALLY SIGN ORIGINAL DOCUMENT AND COPIES SUBMITTED ARE TO INDICATE SIGNATURE.

- 1) Proposer's State of Residence:
2) Prompt Payment Terms: % Discount if paid within days. City of New Braunfels payment terms is NET 30.

Company Name, Address of Proposer:

Name and Title of Person Authorized to Sign Offer:

E-Mail Address:

Phone Number:

Fax Number:

Signature:

Date:

Specify Name, Address, E-mail Address, and Telephone
Number of Person authorized to conduct negotiations
on behalf of Proposer, if different than listed above.

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SECTION 3 – STANDARD TERMS AND CONDITIONS

3.1 INSTRUCTIONS TO PROPOSERS

- (a) Thoroughly examine the drawings, specifications, schedule, instructions, and all other solicitation documents.
- (b) Make all investigations necessary to be familiar with conditions that affect the Proposal, such as but not limited to, knowledge of locations and needed materials and equipment to handle the requirements of the bid. No plea of ignorance by the Proposer because of failure to investigate or examine conditions or failure to fulfill details of the contractual documents will be accepted as a basis for varying the requirements of City or changing the compensations due.
- (c) City contracts are subject to all legal requirements of City, state or federal statutes and regulations. Laws of the State of Texas apply.
- (d) Provide all required information on the forms furnished in the solicitation. Print or Type name on Proposal and **ORIGINAL AND COPIES MUST HAVE SIGNATURE IN THE SPACE AND ON THE FORMS PROVIDED.** **Telegraphic, Fax, E-mail and Online responses WILL NOT BE ACCEPTED unless specifically authorized in the terms and conditions of the solicitation. If you obtained this solicitation by Internet posting, your response will not contain any alteration to the document posted other than entering data in the spaces provided or including attachments as necessary. By submission of a response, Respondent affirms that no alteration of any kind has been made to this solicitation.**
- (e) If applicable, provide unit prices and extension prices. The unit price shall govern where there is disagreement in the unit and extension prices.
- (f) Alternate Proposals cannot be considered unless specifically invited and authorized by the solicitation.
- (g) If applicable, provide your proposed delivery time. Include weekends and holidays in counting days or months.
- (h) Do not include federal taxes or State of Texas limited sales excise and use taxes in Proposal prices since CITY is exempt from payment of these taxes. (Sec 151.309 Tax Code)
- (i) If applicable, include cost of freight to destination(s) shown in the unit price in your bid. Only F.O.B. destination bids will be considered.
- (j) All Proposals must be current and final at the time of opening to be considered responsive. No Proposal will be accepted for consideration, and no award will be made, if at the time of opening anything contained therein is contingent upon, or subject to, any outstanding matter, including, but not limited to, any review, certification, or approval by any party that has not been received.

3.2 PROPOSER'S CERTIFICATIONS/AGREEMENTS

By submission of a Proposal:

- (a) You certify that you are a duly qualified, capable, and otherwise bondable business entity. You further certify that the Company, Corporation or Partnership does not owe any back taxes within City. No award will be made to a firm owing back taxes within the City. Additionally, if taxes become delinquent after an award has been made to you, that fact may constitute cause for cancellation of this contract.
- (b) You warrant that all applicable patents and Copyrights which may exist on items in Proposal have been adhered to and further, you warrant that City will not be liable for any infringement of those rights. Such rights granted City will apply for the duration of the contract or for the life of the equipment or supplies purchased. City agrees not to sell, convey, barter, or otherwise extend the use or exclusive right granted herein to anyone other than City employees for official use as described in this contract. City will not knowingly or intentionally violate any patent, license or copyrights applicable to items sold hereunder.
- (c) You warrant that upon execution of a contract with City you will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, race, color, sex, disability, creed, or national origin and will submit reports as City may require assuring compliance. Furthermore, City, its Contractors, their Subcontractors and suppliers, as well as all vendors of goods, equipment, and services, will not discriminate based on race, color, religion, national origin, handicap, or sex in the award and/or performance of contracts. All vendors, suppliers, professionals, and Contractors doing business, or anticipating doing business, with City will support, encourage, and implement affirmative steps toward the goal of establishing equal opportunity for all the citizens of City.
- (d) If applicable, you certify that any substitute brand bid upon matches the performance and essential characteristics of the item in the purchase description and agree to replace it in the event it does not conform. All information, brochures, specifications, etc., necessary to determine the alternate item conforms to that stated in the purchase description must be submitted with each offer.
- (e) You warrant that the offered price will be held firm and subject to acceptance by the City Council for a period of sixty (60) calendar days from solicitation closing date, or such longer period indicated in your offer.

- (f) City is a government agency engaged in public projects where damages caused by breach of contract are difficult or impossible to measure. Awardee agrees that the amount of the bond is the amount of damage, except that if in the opinion of the City Council, the failure to perform terms of the contract is the result of acts or events over which you have no control the BOND in whole or in part may be returned to you at the City Council's sole discretion.
- (g) You warrant that you employ or retain no one or no agency to solicit or secure this contract where you have agreed to pay a commission, percentage, brokerage, or CONTINGENCY FEE, except for your bona fide employees or your bona fide established commercial or selling agencies that you maintain as a regular course of business. Violation is cause for City to annul the contract without liability, or at its discretion to deduct consideration from the contract price for the full amount of the commission, percentage, brokerage, or contingent fee.
- (h) You affirm that any response has not included any preparation in collusion with any other Proposer, and that the contents of any response as to prices, terms or conditions of said response have not been communicated in any manner to any other person engaged in this type of business prior to the official opening of this solicitation.
- (i) You hereby assign to City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3.3 PAYMENT AND INVOICING

PAYMENT/INVOICE REQUIREMENTS

- (a) PAYMENTS will be made by check or warrant by City upon satisfactory delivery of services and submission and acceptance of Contractor's INVOICE to the address below, or as indicated on Purchase Order or as specified on Attachment A – Cost Proposal Form.

ACCOUNTS PAYABLE
550 LANDA STREET
NEW BRAUNFELS, TEXAS 78130
Phone Number: (830) 221-4380

1. All payment terms will be "Net 30 Days" unless otherwise specified in the solicitation.
 2. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
 3. The City may withhold or set off the entire payment or part of any payment otherwise due the Vendor to such extent as may be necessary on account of:
 - a. Reasonable evidence that the Vendor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - b. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- (b) INVOICES. The City agrees to pay all approved invoices Net Thirty (30) days from the date received and approved. The City does not agree to the payment of late charges or finance charges assessed by the vendor for any reason.

Vendor must provide adequate detail on invoice for the City to review and approve. The City reserves the right to request and receive additional detail when needed. The following data shall accompany monthly invoices:

1. Date(s) of Service and Locations Served
2. Contract Number
3. Any other data sharing as required by the Agreement.

- (c) ASSIGN PAYMENT In a contract award exceeding Five Thousand Dollars (\$5000.00), you may assign payment to a bank, trust company or other financing institution, including any Federal lending agency by prior written approval and authorization through the City Manager's Office. Payment by City can be made only to one party. Assignments that do not conform to these terms will not be recognized.
- (d) NOVATION/NAME CHANGE If you change your name or ownership (NOVATION), notify the City's Purchasing Representative immediately. The change must be approved by the City Manager before any change can be recognized in the contract.

3.4 F.O.B. DESTINATION Title and risk of loss of the goods will not pass to City until receipt and acceptance takes place at the F.O.B. point. Contractor will be responsible to deliver to the destination(s) shown in the schedule (or in more

detail in resultant orders), unload, remove any debris caused by the Contractor at final destination at Contractor's expense, as applicable.

- 3.5 NO CITY OFFICER, EMPLOYEE OR ELECTED OFFICIAL WILL BENEFIT** from this contract. They may not hold a share or interest in its proceeds. If the award is to a corporation, however, the provision does not apply to minority stockholders of publicly traded corporations.
- 3.6 NO GRATUITIES** (in the form of entertainment, gifts, or otherwise) may be offered or given by the Proposer or Awardee or any of their agents or representatives, to any City officer or employee for the purpose of securing a contract or securing favorable treatment in the award or amendment of a contract, or to determinations concerning performance of the contract. Violation is cause for termination of the contract by written notice by the City, followed by an opportunity for a hearing. The facts of the City Council findings can be an issue for review by any competent court. Contractual remedies that apply to BREACH of contract apply if terminated under this provision. A penalty of exemplary damages, in an amount determined by City Council of not less than three nor more than ten times the cost incurred by the violator in providing any gratuity, in addition to any other damages to which City is entitled by law, is recoverable.
- 3.7 FORCE MAJEURE** - Neither party can be held responsible for losses of any kind because of causes not within their control, if reasonable diligence has been exercised to prevent the loss or delay.
- 3.8 ASSIGNMENT - DELEGATION** - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
- 3.9 PROTESTS, DISPUTES AND APPEALS** - A contract may not be awarded to a Proposer who is not the best value Proposer meeting specifications unless, before the award, each lower Proposer is given notice of the proposed award and is given an opportunity to appear before City Council and present evidence concerning their responsibility.
- (a) Protest before award must be submitted in writing to the City's Purchasing Representative and will be heard by City Council prior to award.
 - (b) Protests after award must be submitted in writing to the City's Purchasing Representative within ten (10) calendar days after notification of such award. The City's Purchasing Representative routinely will forward a written reply to the protestant within ten calendar days from receipt thereof. If the protestant is not satisfied with the reply of the City's Purchasing Representative, the protestant may appeal the decision within ten calendar days after receipt thereof, to the City's Purchasing Representative outlining in detail the exact point(s) of disagreement. Should the matter not be resolved to the satisfaction of the Proposer/Contractor, the appeal will be submitted to City Council. The appellant will then have the right to be heard in open court by City Council.
 - (c) CITY Finance Department, Purchasing Division, acts as an official City representative in the issuance and administration of this contract, and may issue and receive all documents, notices, and correspondence. Such documents, notices, and correspondence not issued by or received by CITY Finance Department, Purchasing Division, may be null and void.
 - (d) The decision of City Council will be final and conclusive, and will be binding on all parties concerned, appealable in a court of competent jurisdiction in this City, and in accordance with the laws of the State of Texas.

3.10 TERMINATION CLAUSES

- (a) TERMINATION FOR DEFAULT
Pertaining to contract-related issues, it is the responsibility of both the City of New Braunfels and the awarded Contractor to communicate with each other in as clear and complete a manner as possible. If at any time during the term of this contract the City or the Contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and associated corrective action. The other party will, within 10 days, respond in writing to the other party. If conditions warrant, the City will retain the right to require the Contractor to respond in a shorter period of time. Failure to take corrective action or failure to provide a written reply within the prescribed 10 days may constitute a default of contract.

Prior to termination, the City may choose to warn the Contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the Contractor on probation, thereby giving the Contractor a certain period of time to correct the deficiencies or potentially incur termination. The City will maintain in the contract file a written record of any such warning detailing all pertinent information. If the Contractor does not agree with such action, the Contractor will have 10 days to dispute or protest, in writing, such action; if Contractor does not do so within the 10-day period, Contractor will have no recourse but to accept and agree with the City's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the City's alleged incorrect action(s).

If the Contractor is in material breach of the contract, the City may promptly terminate the contract in whole or in part. Such termination must be delivered to the Contractor in writing and will fully detail all pertinent issues pertaining to the cause of and justification for the termination. The termination will be effective upon the date set forth in the notice and will not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

After termination, if the Contractor does not agree with the City's justification for the termination, the Contractor will have 10 days to dispute, in writing, such action; if Contractor does not do so within the 10-day period, Contractor will have no recourse but to accept and agree with the City's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the City's alleged incorrect action(s). Termination by City may be directed by City Director(s), without further action by City Council. However, if necessary, City Council may take whatever action as its interest may appear, resulting from such notice.

City reserves the right to enforce the performance of this contract in any manner prescribed by law in the event of breach or default of this contract and may contract with another party with or without solicitation of Proposals or further negotiations. As a minimum, Contractor may be required to pay any difference in the cost of securing the products or services covered by this contract or compensate for any loss to City should it become necessary to contract with another source because of default, plus reasonable administrative costs and attorney's fees.

- (b) If it is in the PUBLIC INTEREST TO TERMINATE the contract, the City Council reserves the right to do so. If terminated for the public good, all costs directly attributable to work done or supplies obtained in preparation for completion or compliance with the contract prior to termination will be paid. Costs are excluded which are recoverable in the normal course of business or which can be mitigated through the sale of supplies or inventories. In the event City pays for supplies or materials, they will become the property of CITY and will be delivered to the F.O.B. point shown in the contract, or as designated by the City Finance Department, Purchasing division. No anticipated profits are payable.

3.11 **CONTRACT CONSTRUCTION**

- (a) Provisions Words, Phrases, and Statutes, whether incorporated by actual use or by reference, will be applied to this contract in accordance with Government Code 311.001 et seq Code Construction Act. Wherever "City" is used herein, it is understood to mean "New Braunfels, Texas".
- (b) In the event of inconsistency between provisions of this solicitation, the inconsistency will be resolved by giving PRECEDENCE in the following order: (a) the Schedule of Items/Services and Specifications; (b) Special Provisions; (c) General Provisions; (d) Terms and Conditions of Request for Proposal/Invitation for Bid; (e) other provisions, whether incorporated by reference or otherwise.
- (c) The written contract is the SOLE AGREEMENT between the parties and supersedes any prior understanding or written or oral agreement on the subject matter.
- (d) No provision of the contract will be deemed waived, amended, or MODIFIED unless such change is IN WRITING AND SIGNED by both parties.
- (e) Terms addressed in the solicitation apply to the contract, as well.

3.12 **ANTI-LOBBING AND PROCUREMENT**

Lobbing activities or representations by the Bidder are prohibited between the date that the solicitation is issued and the date of contract execution. During a no-contact period, a bidder shall make a representation only through the authorized contact person on this solicitation. During the no-contact period, a bidder may not make a representation to a City official or to a City employee other than to the authorized contact person. This prohibition also applies to a vendor that makes a representation and then becomes a bidder. The prohibition of a representation during the no-contact period applies to a representation initiated by a bidder, and to a representation made in response to a communication initiated by a City official or a City employee other than the authorized contact person.

3.13 **AWARD OF CONTRACT**

- (a) Award will be made to the responsible Proposer(s) who submits the lowest and best Proposal(s), or to the responsible respondent(s) whose Proposal is most advantageous to the City, price and other factors considered. In determining the best value for the City of New Braunfels, the City of New Braunfels may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.
- (b) When payments are to be made to the City, award will be made to the highest ranked Proposer. After approval by City Council, City Manager will sign Contract Award form and City Finance Department, Purchasing Division, will issue fully executed contract to the successful Proposer. No contract exists until the signed document is delivered.
- (c) City may reject a Proposal (or all Proposals) if not satisfactory to City Council. City also reserves the right to waive minor informalities or irregularities in any Proposal.
- (d) Other factors may be considered in determining the successful Proposal when they are applicable, such as administrative cost for a multiple award calculated at \$500 per award, warranties and guarantees, delivery or production schedule/performance period offered, and ability to perform as requested in bid specifications.
- (e) Ties will be broken by consideration of delivery time or delivery schedule.
- (f) Texas provides no advantage to resident Proposers in the award process. However, offers from another state where that state favors their residents will be evaluated by adding the same differential to the Proposal that would be required for a non-resident Proposal to be awardable in their resident state. For example, how much lower a Texas firm must be in that state than one of their resident Proposals in order to be the awardee.

- (g) Pursuant to Local Government Code §271.9051, the City of New Braunfels has a local preference resolution 2009-R61. This resolution authorizes the municipality to enter into a contract with the lowest Respondent or the Respondent whose principal place of business is in the City of New Braunfels if that local Respondent is within five percent of the lowest bid price received from a Respondent who is not a resident and offers the municipality the best combination of contract price and additional economic development opportunities for the City created by the contract award; including the employment of residents of the municipality and increased tax revenues to the municipality and the contract is less than \$100,000. This provision does not prohibit the City of New Braunfels from rejecting all bids.

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SECTION 4

INSTRUCTIONS FOR RESPONSE

4.1 SUBMISSION OF PROPOSALS

- (a) Responses must be submitted no later than **3:00 P.M. (Central Time), July 7, 2021.**
- (b) On-line/Electronic responses will be accepted. The City of New Braunfels has partnered with its third-party vendor, Texas Purchasing Group (BidNet Direct) as its e-procurement site. The link to BidNet Direct website: <https://www.bidnetdirect.com/texas/city-of-new-braunfels>.

You must register on their site prior to your electronic submission. If you have any problems completing your vendor registration or submitting your electronic response, please contact BidNet at (800) 835-4603, Option 2, to speak with live customer support.

If submitting an electronic proposal through BidNet, an original hardcopy and USB will not be required.

- (c) Respondents have a choice to submit a Sealed Proposal at the Office of the City Secretary at the address shown below. The response must contain one (1) signed original hardcopy and one (1) in electronic format (USB) or submit an electronic Proposal submission through the BidNet Direct website: <https://www.bidnetdirect.com/texas/city-of-new-braunfels>.
- (d) Deliver your proposal, or changes to your submission, in **SEALED ENVELOPES OR PACKAGES** with the following identified on the package. Failure to submit Response in this manner may subject Respondent to disqualification. **Responses may be delivered in person to the New Braunfels City Hall, or by Express Mail or delivery service to:**

**City of New Braunfels
City Secretary's Office/Front Lobby
ATTN: Purchasing
550 Landa Street
New Braunfels, TX 78130**

The outside of the Proposal envelope or package **must state**:

**"CSP 21-021, Crossing Guard Services
Proposal Due Date: July 7, 2021, 3:00 P.M."**

It is the sole responsibility of the respondent to ensure timely delivery of the Proposal. Owner will not be responsible for failure of service on the part of the U.S. Post Office, courier services, or any other form of delivery service chosen by the respondent. **PROPOSALS RECEIVED AFTER THE CLOSING DATE AND TIME WILL NOT BE ACCEPTED OR CONSIDERED.**

- (e) An authorized official of the firm must print or type their name and **MANUALLY SIGN THE ORIGINAL PROPOSAL, AND COPIES MUST BE REFLECT THE SAME SIGNATURE.**
- (f) Proposals may not be withdrawn after the time set for the closing, unless approved by the City.

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- (d) Your offer or a modification to your offer is LATE if received after the time set for Proposal opening and will not be considered.
- (e) If you need clarification or have any question as to the true meaning of specifications or any other document in the solicitation, your concerns must be submitted in writing to the City's Purchasing. Timely requests will be interpreted or otherwise clarified by issuance of a modification to the solicitation distributed to all sources that received a set of the solicitation. No other interpretations or clarifications will be provided prior to award.

4.2 The following items request information that the Evaluation Committee will utilize to evaluate the Proposal. Failure to provide any of the information below may result in a Proposal being deemed non-responsive and therefore not considered in the selection process.

To achieve a uniform review process and to obtain a maximum degree of comparability, the City of New Braunfels requires that Proposals be submitted using the following format and the following items **MUST BE INCLUDED IN YOUR RESPONSE IN THE FOLLOWING ORDER.**

- TAB 1 –Solicitation and Offer Form: Complete and sign form located on Page 1.
- TAB 2 –Acknowledgment of Addendums, if applicable.
- TAB 3 Cover Letter: Name and address of the Respondent, as well as a brief description of the company and its history, and how this makes the Proposer qualified for this bid.
- TAB 4 Contains the following documents:
 - a. Certificate of Insurance One copy completed and signed (Refer to Section 5.7). A “for information purposes only” copy is acceptable. The awarded Contractor will be required to provide their certificate of insurance prior to contract award.
 - b. Conflict of Interest Questionnaire (per Section 5.21)
 - c. Certificate of Interested Parties - Form 1295 (Refer to Section 5.22) This form will be requested from the awarded Contractor.
- TAB 5 Cost Proposal Form (ATTACHMENT A)
- TAB 6 Qualifications and Experience of Company (Refer to Section 4.9 for details) and also attach ATTACHMENT B – COMPANY INFORMATION & RESPONDENT CERTIFICATIONS to your proposal to support Qualification and Experience of Company criteria.
- TAB 7 Additional Supporting Documentation Attach copies of licenses and certifications, or any other documentation not referenced under another tab.
- TAB 8 Deviations from Request for Proposal Proposer is to indicate any deviations being offered in lieu of specified language referenced in the solicitation. Each deviation should be clearly identified as listed within the CSP for cross reference purposes. The terms may be negotiated as part of the negotiation process with the exception of contract provisions that are non-negotiable. Final approval and acceptance of deviations will be at the discretion of the City.

4.3 AVAILABLE DOCUMENTS

Proposals are due **July 7, 2021 at 3:00 P.M. (Central Time)** at the City of New Braunfels, City Secretary's Office ATTN: Purchasing, 550 Landa Street, New Braunfels, Texas 78130. Solicitation documents may be obtained from:

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- the Purchasing Representative at the New Braunfels City Hall
- the BidNet Direct website: <https://www.bidnetdirect.com/texas/city-of-new-braunfels>
- at the City of New Braunfels Website, <http://www.nbtexas.org/2694/Active-Solicitations>

4.4 ISSUING OFFICE AND CONTACT FOR QUESTIONS

Barbara Coleman, Purchasing Manager

Email: BColeman@nbtexas.org

Office: 830-221-4389

All prospective respondents are hereby instructed to not contact any member of the City of New Braunfels' City Council, City Manager, evaluation committee, or City of New Braunfels' staff members other than the noted contact person regarding this solicitation. Any such contact may be cause for rejection of your Proposal.

4.5 ANTICIPATED SOLICITATION SCHEDULE

DATE	EVENT
June 23, 2021	CSP issued on https://www.bidnetdirect.com/texas/city-of-new-braunfels and City's website: http://nbtexas.org/DocumentCenter/Home/Index/139
July 7, 2021	Proposal submittal deadline.
July 26, 2021	City Council considers award of contract.
August 1, 2021	Notice to Proceed

4.6 SOLICITATION UPDATES

Respondents shall monitor the BidNet Direct website (<https://www.bidnetdirect.com/texas/city-of-new-braunfels>) and the City's website <http://nbtexas.org/DocumentCenter/Home/Index/139> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancelations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. It is the Respondent's responsibility to change the websites for current changes to the Solicitation documents.

4.7 EXCEPTIONS AND DEVIATIONS

Any exceptions to the specifications or objectives of the solicitation document must be clearly stated in Respondent's Proposal.

4.8 COMPETITIVE PROPOSALS

Proposals will not be opened publicly to avoid disclosure of contents to competing respondents and kept confidential during the process of negotiation. However, all Proposals will be open for public inspection after award except for trade secrets and confidential information contained in the Proposals and identified as such by the Proposer. Marking the entire Proposal as confidential and/or proprietary is not in conformance with the Texas Open Records Act.

4.9 EVALUATION OF PROPOSALS

- (a) The City of New Braunfels will review Proposals, and the respondent will be recommended for award by City Council, based upon the published Evaluation Standard noted below. The evaluation committee recommendations are subject to approval by the

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City of New Braunfels' City Council.

- The City will evaluate price as an important, but not sole factor, considering the cost of base goods/services and any requested optional features.
- City reserves the right to accept one or more submittals or reject any or all submittals received in response to this solicitation, and to waive informalities and irregularities in the Proposals received.
- The City reserves the right to award to one or more companies or individuals as necessary to meet the contract demands.
- The contracts, if awarded, will be awarded to the respondents whose submittals are deemed most advantageous to City, as determined by the Evaluation Committee.
- The recommended respondent will be submitted to the City Council for approval.

(b) Evaluation Standard:

The City of New Braunfels will review Proposals on the basis of determining the best value to the City in accordance with established specific, weighted criteria for selection. The respondent will be selected based on the published evaluation criteria, demonstrated competence, and qualifications to perform the services. Should the City discover any discrepancies in submissions, Proposer will be given 72 hours to resolve these issues. Failure to resolve any issues concerning inaccuracies may result in Proposer being deemed non-responsive.

This section presents the evaluation criteria, description, and relative weight assigned to each (100 points maximum). The provider will be selected based on the published selected criteria, demonstrated competence, and qualifications to perform the services:

- **Company Background, Qualifications, Experience, References (20 points)**

The City will evaluate based on the Proposer's background, qualifications and successful experience with providing the requested services. City will consider the relevance of past experience for all parties proposed as a part of the team. Specified services shall be performed by a Company with a minimum of five (5) years' experience or documented experience specializing in this type of service.

- Provide a narrative that includes background information regarding the company; include company name, state of incorporation, location of headquarters office, location of office(s) that would service the City of New Braunfels for the requested services.
- Describe in detail the services your company can provide to the City and your service process. Include type and level of supervision, quality control methodology, policies regarding attendance, training/orientation activities, plan for crosswalk areas when absences occur.
- Identify and provide copies of any professional qualifications which your company has, such as, licenses, certifications, associations, if applicable.
- Provide information if the City of New Braunfels will have an account representative for oversight of services being provided through this contract.
- Provide sample or describe the type of monthly summary report that would be provided.
- Provide a minimum of three (3) references showing experience in having completed contracts of this type. References should include company name, contact person, address and telephone numbers.

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- **Proposed Contract Pricing (80 points)**

The City will evaluate price as an important, but not the only factor, considering the cost of base services and optional services.

- Proposer shall submit an hourly rate for services.
 - Proposer's price bid shall remain firm, unless the City of New Braunfels requests additional services from the awarded Contractor, which are directly related to the contract. All additional costs shall be approved by the City and confirmed through a written Contract Modification issued by the City.
- (c) Negotiations may be conducted with responsible respondents who submit Proposals determined by Purchasing staff to be reasonably susceptible of being selected for award. All respondents will be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of Proposals. Revisions to Proposals may be permitted after submission and before award for the purpose of obtaining best and final offers.
- (i) Any oral negotiations must be confirmed in writing prior to award.
 - (ii) Award may be made without negotiation of Proposals with any respondent.
- (d) Presentations/Interviews: After an initial review and compilation process, the City may ask for a presentation/interview of services from selected companies or individual to clarify and to develop a comprehensive assessment of the submissions. This is at the City's option.
- (e) Other Considerations: The City reserves the right to consider historical information and facts, whether gained from the Proposal, references, or any other source, in the evaluation process, including Respondent's past working or business relationship with the City, if any. The City further reserves the right to consider a respondent's background, personnel, experience, financial and other references, management practices, exceptions to the CSP or subsequent contract, and any working relationships, past or present, a respondent may have with its other clients.

CONTACT THE PURCHASING REPRESENTATIVE NOTED ON PAGE ONE (1) IF YOU HAVE ANY QUESTIONS.

SECTION 5

GENERAL REQUIREMENTS

5.1 CONTRACT TERM

This contract shall begin upon the effective August 1, 2021, or the begin date specified in contract award, whichever is later, through July 31, 2022.

5.2 City's Representative: City's representative for this Agreement shall be the Purchasing Manager, Barbara Coleman, BColeman@nbtexas.org, 830-221-4389

5.3 OPTION TO RENEW

At City's option, this Contract may be renewed under the same terms and conditions for **two (2) additional one (1) year period(s)**. Renewals will be in writing and signed by the City's Purchasing Manager, without further action by City Council, subject to, and contingent upon, the appropriation of sufficient funding. Contractor must contact City's Purchasing Representative no later than ninety (90) days prior to end of contract term to request any contract modifications, including cost adjustment.

5.4 PRICE ADJUSTMENTS

Contract prices shall remain fixed throughout the initial term of the awarded contract. After the pricing schedule has been established in the initial agreement, requests for price increases and/or decreases will be considered 90 days prior to renewal of the contract. Such request must be made in writing and submitted by an authorized representative of the Awarded Vendor to the City's Purchasing Manager. Vendor must submit supportive documentation for increase request. Price adjustments are at the discretion of the City and adjustments shall be approved at the City's discretion, by the City Manager, as needed.

5.5 CONTRACT CHANGES

The City Representative may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any of the following.

- a) Description of services to be performed.
- b) Time of performance (i.e. hours of day, days of week, etc.)
- c) Place of performance of the services.
- d) Correction of errors of a general administrative nature or other mistakes, the correction that does not affect the scope of the contract or does not result in expense to the Contractor.

If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract, whether or not changed by the order, the City will make an equitable adjustment in the contract price, the delivery schedule, or both, and will modify the contract. The Contractor must submit any "Proposal for adjustment" under this clause within 30 days from the date of receipt of the written order. However, if the City decides that the facts justify it, the City may receive and act upon a Proposal submitted before final payment of the contract. If the Contractor's Proposal includes the cost of property made obsolete or excess by the change, the City will have the right to prescribe the manner of disposition of the property. Failure to agree to any

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adjustment will be a dispute under the Disputes and Appeals clause. However, nothing in this clause will excuse the Contractor from proceeding with the contract as changed. For other price adjustments refer to 5.4 of this section.

5.6 INTERLOCAL PARTICIPATION

The City reserves the right to extend all terms, conditions, specifications, and unit or other prices of any contract resulting from this Proposal to other public entities including, but not limited to, municipalities, governmental entities, school districts, and universities. This option is conditioned upon *mutual agreement* of all parties pursuant to special requirements which may be deleted from the original contract. The Proponent will notify any governmental entity that wishes to use any contract resulting from this Proposal that it must contact the City's Finance Department, Purchasing division, for approval of its utilization of the City's contract.

The City assumes no authority, liability or obligation, on behalf of any other governmental entity that may use any contract resulting from this Proposal. All purchases and payment transactions will be made directly between the successful Proponent and the requesting entity. Any exceptions to this requirement must be specifically noted in the Proposal response.

5.7 INSURANCE AND LIABILITY

During the period of this contract, Contractor will maintain at his expense, insurance with limits not less than those prescribed below. Contractor further agrees to indemnify, defend, and hold City of New Braunfels harmless from any and all causes of action arising from this contract. With respect to required insurance, Contractor will:

- i. Name City of New Braunfels as additional insured/or an insured, as its interests may appear.
- ii. Provide City of New Braunfels a waiver of subrogation. Contractor's workers' compensation, employers' liability, commercial automobile liability, CGL, excess liability, professional liability, and builder's risk insurance policies will be endorsed to waive all rights of subrogation in favor of the Owner Group. With respect to all such policies, Contractor waives any and all rights of recovery or subrogation against the Owner Group.
- iii. Provide City of New Braunfels with a thirty (30) day advance written notice of cancellation or material change to said insurance.
- iv. Provide a Certificate of Insurance evidencing required coverage within ten (10) days after receipt of Notice of Award to the City's Finance department, Purchasing Representative noted on Page 1 of this contract.
- v. Submit a certificate of insurance reflecting coverage as follows:

Automobile Liability

Bodily Injury (Each Person)	-	\$ 250,000.00 combined single limit- Personal Injury and Property Damage
Bodily Injury (Each Accident)	-	\$ 500,000.00
Property Damage	-	\$ 100,000.00

Commercial General Liability (Including Contractual Liability)

Personal Injury	-	\$ 1,000,000.00 per person
	-	\$ 1,000,000.00 per occurrence
Property Damage	-	\$ 500,000.00 per occurrence

Worker's Compensation

- Statutory limits

Employers' Liability

- \$ 500,000.00 per accident or
occurrence

- vi. The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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The Business Automobile Liability insurance provided by CONTRACTOR shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-city vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this Contract.

The Workers' Compensation coverage provided by CONTRACTOR shall inure to the benefit of employees injured during the course and scope of their employment by CONTRACTOR pursuant to this Contract. All insurance required pursuant to this Contract shall provide for a waiver of subrogation in favor of CITY. All insurance required pursuant to this Contract, except for Worker's Compensation Insurance, shall name CITY as an additional insured on a claims occurred basis. CITY shall be provided the notice by CONTRACTOR's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

CONTRACTOR shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of CITY of New Braunfels and policies that name CITY of New Braunfels as an additional insured on a claims occurred basis (except workers compensation).

The parties agree that, prior to the execution of the Contract, CONTRACTOR shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of CITY. CITY shall not be required to provide any insurance whatsoever pursuant to this Contract.

- vii. The parties agree that, prior to the execution of the Contract, CONTRACTOR shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of CITY. CITY shall not be required to provide any insurance whatsoever pursuant to this Contract.
- viii. ACTUAL FINALIZED INSURANCE COVERAGE WILL ONLY BE REQUIRED OF THE SELECTED PROPOSAL. PROPOSALS CAN SEND THEIR CERTIFICATE OF INSURANCE "FOR INFORMATION PURPOSES ONLY" WITH THEIR PROPOSAL.

5.8 INDEMNITY AGAINST LOSS

Contractor or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT, even where such damage, injury, loss, illness, physical or mental impairment, loss of service, or death results from or involves NEGLIGENCE, or allegations of negligence on the part OF THE CITY, its officers, agents, or employees. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. Contractor will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Contractor may deem expedient; and 3) defend or cause to be defended on behalf

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of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Contractor will pay all judgments finally establishing liability of the City in actions defended by Contractor pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Contractor, and premiums on any appeal bonds. The City, at its election, will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to the Contractor's property from any cause.

5.9 SOVEREIGN IMMUNITY

By executing this agreement, the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

5.10 THIRD PARTY BENEFICIARY

The Buyer's approval of this agreement does not create a third-party beneficiary. There is no third-party beneficiary to this agreement. No person or entity who is not a party to this agreement shall have any third-party beneficiary or other rights hereunder.

5.11 ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, SELLER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE BUYER, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE SELLER SPECIFICALLY AGREES THAT IF THE SELLER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE SELLER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH SELLER MIGHT OTHERWISE BE ENTITLED.

SELLER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. SELLER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. THE SELLER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BUYER AND THE SELLER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE SELLER AND BUYER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

5.12 FUNDING OUT

In the event no funds or insufficient funds are appropriated and budgeted or are otherwise

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unavailable in any fiscal period for agreement payments due under the agreement, then this agreement shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to City of any kind whatsoever.

5.13 NONWAIVER

Failure of City hereto to declare any default immediately upon occurrence hereof, or delay in taking any action in connection therewith, shall not waive such default, but City shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

5.14 SERVERABILITY

This Agreement shall be construed in accordance with the laws of the State of Texas. If any clause or provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws effective during the term hereof, then it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of both parties that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in meaning to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

5.15. ENTIRE AGREEMENT AND BINDING EFFECT

This Agreement constitutes the entire agreement between City and Contractor. No prior written or prior or contemporaneous oral promises or representations shall be binding. The provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

5.16 INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Seller shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Buyer; that Seller shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Buyer and Seller, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Buyer and Seller. No person performing any of the work and services described hereunder by Seller shall be considered an officer, agent, servant or employee of the Buyer. Further, it is specifically understood and agreed that nothing in this agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Seller shall be an independent contractor under this agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The Buyer does not have the power to direct the order in which the work is done. The Buyer shall not have the right to control the means, methods or details of the Seller's work. Seller shall assume exclusive responsibility for the work. Seller is entirely free to do the work in its own way.

5.1 GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Agreement shall be deemed to have occurred Comal County, Texas.

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Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Comal County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Comal County, Texas.

5.18 COMPLIANCE

Contractor agrees that it shall comply with Texas Government Code Section 2252.908, et seq., as amended, if applicable. Contractor agrees that it shall comply with Texas Local Government Code Section 176.006, et seq., as amended, if applicable.

5.19 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

5.20 SAFEGUARDING OF INFORMATION AND DATA

The Contractor will safeguard all information and data provided by the City. Further, Contractor will not sell or make available data or mailing lists compiled from data received from the City without the express written approval of the City Council, through the City's Finance Department, Purchasing division, with appropriate remuneration to the City.

5.21 CONFLICT OF INTEREST QUESTIONNAIRE (FORM CIQ)

In accordance with Chapter 176 of the Texas Local Government Code, "Disclosure of Certain Relationships with Local Government Officers," persons, or their agents who seek to who seek to contract for the sale or purchase of property, goods, or services with the City, will file a **Conflict of Interest Questionnaire (Form CIQ)** with the City Secretary if the vendor has a business relationship as defined by Section 176.001(1-a) with the City and the vendor meets requirements under Section 176.006(a).

Form CIQ is available from the Texas Ethics Commission by accessing the following web address: <https://www.ethics.state.tx.us/data/forms/conflict/CIQ.pdf>

The Conflict of Interest Questionnaire (Form CIQ) is required to be filed within 7 business days of:

- a. Beginning of discussions or negotiations to enter into a contract with the City; or
- b. Submission of an application, response to a request for Proposals or bids, correspondence or other writing related to a potential agreement with the City.

If requested in the solicitation document, all respondents are to submit a completed Conflict of Interest Questionnaire (Form CIQ) with their Proposal **in addition to** submitting a completed Form CIQ to the City Secretary's Office located at 550 Landa Street; New Braunfels, Texas 78130.

By law, Form CIQ must be filed with the City Secretary no later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed as per Section 176.006(a-1). A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

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5.22 CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

(THIS FORM WILL BE REQUESTED FROM CONTRACTOR BEING AWARDED A CONTRACT BY THE CITY OF NEW BRAUNFELS. THE FORM MUST BE FILED WITH THE TEXAS ETHICS COMMISSION AND ACKNOWLEDGED BY THE CITY, PRIOR TO FINALIZATION OF AWARD.)

Texas Government Code §2252.908, and the rules issued by the Texas Ethics Commission (TEC) found in Title 1, Sections 46.1, 46.3 and 46.5 of the Texas Administrative Code, require a business entity to submit a completed **Certificate of Interested Parties (Form 1295)** to the City before the City may enter into a contract with that business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

Standard Filing Process: Form 1295 is accessible at, and must be completed online, at the following web address: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

A business entity must enter the required information as directed on Form 1295 and then print a copy of the completed form after it has been submitted online. It is important to note that the information that is required in 'Certification Number' and 'Date Filed' fields in the 'Certification of Filing' box on the form will not be generated until the form has been **submitted**, not saved. An authorized agent of the business entity must then complete the information required in the "Unsworn Declaration" field of the form and sign the printed copy of the form, containing the TEC system-generated Certification Number and filing date. The completed and signed Form 1295 must be filed with the governmental body or state agency with which the business entity is entering into the contract; the governmental body or state agency will subsequently acknowledge the Certificate of Interested Parties (Form 1295) on the TEC website.

Solicitation Document: If a completed Form 1295 is requested in a solicitation document issued by the City, Respondent will reference the City's solicitation number in Box 3 of the form as a contract number is not generated until the award of a contract by City Council. Respondents must submit the original signed form with their response to the solicitation. The City will subsequently acknowledge the Certificate of Interested Parties (Form 1295) on the TEC website after the contract has been awarded.

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SECTION 6

SCOPE OF WORK

6.1 PURPOSE

The City of New Braunfels is seeking pricing from experienced vendors to provide temporary employment services for School Crossing Guards in the City of New Braunfels, Texas. These services support the City's' partner, New Braunfels Independent School District, NBISD, and their crossing guard needs.

It is desire of the City to award one contract for all services.

This is a firm fixed-price contract, the service items are identified on Attachment A – Cost Proposal, at the stated prices submitted by the Proposer.

6.2 BACKGROUND

The City of New Braunfels is located at the edge of the Texas Hill Country conveniently located between the San Antonio and Austin metro areas along the I-35 corridor. New Braunfels has a growing population of over 100,000.

This contract will support the New Braunfels Independent School District, NBISD, and their student crosswalks. NBISD has a student population of approximately 9,000 students. The NBISD has nine elementary schools, two middle schools, and three high schools.

The City utilizes a grant from the Child Safety Fund for an annual budget of \$125,000 to support the crossing guard program.

6.3 SPECIFICATIONS AND MINIMUM REQUIREMENTS

1. Contractor will provide City with temporary personnel who are qualified to perform the duties required of a school crossing guard ("guards").
 - a. Crossing Guard Services shall be provided at each location for 3 hours each day that the school is in session during the regular school calendar year with the exact hours and locations to be established by the City with the New Braunfels School District. The days may vary slightly requiring additional days to be scheduled.
 - b. There are approximately 19 crosswalk sites that will be supported.
 - c. All services will be preauthorized by the City and coordinated with the New Braunfels Independent School District. The contract will support 169 instructional school days per year.
2. The following tasks are also included in this Scope of Work:
 - a. Contractor will provide all administrative duties associated with the Crossing Guard Program for The City.
 - b. Supervision of Guards: The Contractor will be required to provide for the supervision of all employees associated with conducting the Crossing Guard Program, including the recruitment, hiring, training, discipline, and terminations of employees. If the Contractor cannot or will not personally supervise the work a competent supervisor is to be assigned the responsibilities of supervision of all work in progress as specified in the contract.

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- c. Contractor will provide all vehicles and other associated equipment related to conducting the Crossing Guard Program. Required equipment will, at minimum, include safety-reflectORIZED vests, stop signs, whistles, rain gear, and photo-identification badges.
- d. Contractor shall provide all employees with equipment, materials and supplies that complies with all applicable laws and established safety standards.
- e. The Contractor shall arrange for and provide all substitute employees, ensuring that all designated locations are staffed during the required time periods. The Contractor shall contact the appropriate representative immediately if a position cannot be filled by the Contractor.
- f. The Contractor shall be responsible for coordinating with the affected schools and school district to ensure coverage is provided at designated locations when school schedules are modified and/or changed for any reason that requires children to arrive or depart at a time that is different than the norm.
- g. Contractor will provide all of the required training for employees selected to be crossing guards.
- h. Contractor shall maintain detailed records and reports of the total number of hours of service provided. These records shall list the number of hours worked at each location. These records will be made available for inspection and audit by The City at any time.
- i. The Contractor shall investigate all public complaints concerning crossing guard services.
 1. In the event of a complaint, the Contractor shall contact The school representative, within two (2) hours, to advise the nature of the complaint and the course of actions/remedy/resolution of said complaint. Contractor shall furnish a written report of the incident to The City and the School representatives within twenty-four (24) hours of the complaint.

3. Duties of Crossing Guards

Crossing guards shall:

- Perform all work to the highest professional standard and in a manner deemed reasonably satisfactory by the City; Halt vehicles when necessary by mechanical (when present) and hand signal to permit children to cross the road safely;
- Maintain order among children assembled at street crossing points and permit them to cross only when they can do so safely;
- Report to the School the license plate number of motor vehicles that violate traffic laws or crossing guard instructions;
- Make children aware of the elements of traffic safety and operation of pedestrian controls;
- Identify children to school officials who do not follow safety regulations; and
- Wear a reflective traffic safety vest at all times when on duty.

4. Special Conditions

a. Reduction of Personnel:

City may, at its option and without penalty and cost, reduce the number of Guards required above, by providing notice to Contractor not later than three (3) calendar days prior to the effective date of the reduction. Contractor shall be solely responsible for selecting which Guards shall be terminated from service with City pursuant to this reduction.

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b. **Increase of Personnel:**

Contractor agrees upon written request of City to use best efforts to provide additional personnel to City in the event City requires crossing guards in excess of the days originally agreed upon. The City agrees to pay the Contractor for the additional days per the rates proposed by the Contractor.

c. **Dismissal of Personnel by City:**

Any employee whose conduct is not satisfactory, as determined by The City, shall be removed from providing crossing guard services for The City. Replacement personnel shall be assigned immediately by the Contractor after the removal of any personnel. Upon written request of City's representative, the Contractor shall remove and use its best efforts to replace any Temporary personnel assigned by the Contractor to perform services for City under this Agreement found by City and the NBISD to be unsatisfactory. Contractor's fee shall be reduced by the proposed fee per person per hour for each hour that a position remains unfilled by a replacement Temporary. Contractor shall be in default of this Agreement if any position remains open more than two (2) school days after receiving notice of the request for replacement of a Temp.

d. **Background Check:**

Contractor shall perform local and national criminal background checks on all potential Guards prior to commencing work. Said criminal background checks shall include a multi-state/multi-jurisdictional criminal records locator, or other similar commercial nation-wide database with validation (primary source search), and National Sex Offender Registry database. Potential Guards shall also be required to undergo drug and alcohol testing and physical exams prior to commencing work for City. Prior to rendering any services under this Agreement and upon receiving a request by City or NBISD to do so at any time during the term, Contractor shall provide City's Contract Administrative Services with a certification of compliance, in a form acceptable to City, that Contractor has met the requirements of this Section and is in compliance hereof. Cost for all testing shall be included in the requested hourly rates.

5. Minimum Standards for Crossing Guards

Crossing guards provided by the Contractor to provide services shall:

- Be at least eighteen years of age;
- Be physically and mentally capable of performing the duties of a crossing guard;
- Have the ability to establish and maintain effective working relationships with children, parents, school officials and law enforcement officials;
- Have the ability to remain calm and use good judgment and initiative in an emergency situation; and
- Be of good moral character and have never been convicted of any felony, a crime against children, or crime of sexual assault.

6. Training

The Contractor shall fully train each Adult Crossing Guard prior to a guard assuming their duties. Training standards shall include at a minimum instruction on holding a hand held stop sign, where to stand while children cross, wearing of a reflective safety vest, use of any other issued equipment, and the procedures for reporting safety violations and actions to be taken in the event of an accident, as well as any other training standards imposed by the County Sheriff's Office or the Town of Clay which include the following:

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ALL materials and content recommended by Saferoutesinfo.org including but not limited to

- The basic traffic laws of the community.
- School zone signage and pavement markings.
- Proper use and purpose of traffic signs and signals.
- Methods of signaling drivers and taking advantage of traffic gaps.
- Crossing procedures and ways to teach them to children.
- Site-specific traffic factors and potential traffic hazards.
- Professional work responsibilities, including agency rules and regulations, who the guard's supervisor is, the proper chain of command and legal aspects of the job.
- Proper attire and behavior to remain safe and to project a positive public image. For example, while on the job, a guard should not wear clothing that is in poor taste or that promotes alcohol, tobacco or similar products. Also, a guard should not carry or use tobacco products or use foul language. Adult school crossing guards project a positive public image and serve as a role model for children.
- Proper use of safety equipment.
- The safety issues and limitations of children as pedestrians.
- Procedures for crashes involving adult school crossing guards and children on their way to or from school.
- Emergency procedures.
- Protecting the health and welfare of the guard while working, including topics such as proper attire to increase visibility, the need for hydration, sun protection, bee sting treatment and how to respond to threats from loose dogs.

7. Equipment

- a. The Contractor shall provide a safety vest or jacket and hand-held stop sign for use by each Adult Crossing Guard. The safety vest or Jacket will meet or exceed the most current American National Standard Institute or ANSI rating for traffic control.
- b. All equipment used by the Contractor at their facility should be in good and working condition, and must comply with all applicable State, Federal and OSHA regulations for their type of business.

8. School Liaison

The Contractor shall establish a liaison with the school district to monitor changes in school schedules. The Contractor shall report these changes to the City Representative. The City Representative shall authorize all changes to the contract.

9. Hiring and Discharge of Personnel

Contractor shall have the sole right to hire or discharge Guards assigned to work under this Agreement; provided, however, Contractor shall be in default of this Agreement if a Temp is discharged by Contractor or a Temp resigns and said Temp is not replaced by another Temp by the second school day following such discharge or resignation.

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10. Payment of Personnel

Contractor shall be solely responsible for establishing and paying all wages and salaries due the Guards for work performed pursuant to this Agreement. Contractor shall further be solely responsible for payment of all payroll taxes, FICA, and State and or Federal unemployment taxes related to Contractor's employment of the Guards assigned to work under this Agreement.

11. Crossing Guards in the State of Texas must be carried under Workers Compensation Code 7720. Written justification must be provided, if you are not carrying Workers Compensation.

6.4 NOTIFICATION OF GUARDS REGARDING WORKERS' COMPENSATION COVERAGE

Contractor shall provide written notification to every Temp assigned to work pursuant to this Agreement that statutory workers' compensation coverage is being provided by Contractor for injuries covered by the Texas Workers' Compensation Act, as amended, which are incurred while the Guards are under the direction and control of Contractor. No Temp shall commence work for Contractor under this Agreement until a copy of such notice, signed by the Temp, has been delivered to City's Contract Administrator.

6.5 INSPECTIONS

a. The Contractor is responsible for establishing and maintaining an adequate quality control system to satisfactorily inspect and ensure that all work performed in their work environment is in full compliance with applicable codes. The Contractor's Quality Control Inspector, or their designee, whose main duty shall be to verify contract conformity of all work performed, must be onsite during work hours of the Contractor's business.

6.6 DAMAGES

a. The City assumes no responsibility for the Contractor's equipment, tools or supplies used in the performance of services.

b. The City shall not be liable for any loss or damage sustained by the Contractor. The Contractor shall save the City whole and harmless from any and all claims for liability or damage of whatsoever nature and kind, including cost of court and attorney's fees, suffered or asserted to have been suffered by any person or to any property of any person whomsoever, growing out of or resulting from or in any way connected with the performance of work under this agreement.

6.7 DISPUTE AMOUNTS

If upon receipt of an invoice, City disputes any amounts purportedly due under said invoice, Contractor shall provide, upon request of City, supporting documentation for such fees, including, but not limited to, copies of any time sheets or similar documents completed by Guards assigned to this Agreement. In case of dispute, City agrees to pay undisputed amounts in accordance with Paragraph 9, above. Upon resolution of differences over any disputed amounts, City agrees to pay the amount due based upon the agreed resolution not later than five (5) business days or the due

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date of the original invoice, whichever is later.

6.8 CITY'S RESPONSIBILITIES TO CONTRACTOR

The City of New Braunfels will:

- Provide the Contractor with City's Representative.
- The City reserves the right to add, modify, or remove locations or times as necessary. The Contractor shall coordinate this work with the City Representative and the School District.
- Work with the Contractor to coordinate services with the Contractor, NBISD, and the City.
- Be responsible for timely payment of services performed by Contractor
- Provide successful Contractor(s) with the City's tax exemption form

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ATTACHMENT A

COST PROPOSAL FORM

Prices shall include all costs for the services provided. All overhead costs shall be included in the Hourly Billing Rate. Prices shall remain in effect for the term of the contract.

CSP 21-021			
School Crossing Guards for the City of New Braunfels			
Crossing Guard Locations / Approximate (up to 3 hours per day per location)	Hours per Year (169 instructional school days per year)	Hourly Billing Rate Per Site	Total Price Bid (A x B x C)
19 Locations			

***TOTAL PRICE BID \$ _____ Dollars**
*** (in written words)**

***To be verified by extension of above items.**

COMPANY NAME: _____

COMPANY REPRESENTATIVE'S NAME AND TITLE:

ADDRESS: _____

TELEPHONE NUMBER: _____

EMAIL ADDRESS: _____

THE CITY OF NEW BRAUNFELS IS A TAX-EXEMPT ENTITY. Do not include taxes in your pricing

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COMPANY INFORMATION

The Proposer is required to submit the following information to Owner for consideration:

1. Company Information:

- Company name: _____
- Company address: _____
- Year established: _____
- Number of years in business under present name: _____
- Form of ownership: Proprietorship Partnership Corporation Other (specify)
- When organized: _____
- If a corporation, where incorporated: _____
- Federal Employer Identification Number: _____
- Texas Comptroller's Taxpayer Number, if applicable: _____
- DUNS NUMBER: _____

2. Subcontractor(s), if applicable:

- Subcontractor(s) will not be used to complete this contract.
- Subcontractor(s) will be used to complete this contract. (*Attach a list if additional space is necessary.*)

Subcontractor Name: _____

Percentage (%) of Total Contract: _____

SPECIFY WHAT SERVICES WILL BE SUBCONTRACTING OUT:

Mailing Address: _____

- 3.** Your company certifies that the Project Manager you propose for this contract has sufficient knowledge, skills and experience in similar contract work: **Yes** **No**

If **no**, explain: _____

- 4.** Your company certifies that it is able to meet the insurance requirements and provide Certificates of Insurance as specified in the General and Supplemental Conditions of this contract.

Yes **No**

If **no**, explain: _____

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5. References:

Provide three (3) references that Respondent has provided services to within the past five (5) years. The contact person named should be familiar with the day-to-day management of the contract and be willing to respond to questions regarding the type, level, and quality of service provided.

A. Reference No. 1:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Date and Type of Service(s) Provided: _____

B. Reference No. 2:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Date and Type of Service(s) Provided: _____

C. Reference No. 3:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Date and Type of Service(s) Provided: _____

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6. If awarded, Respondent's primary point of contact for City account is:

Name: _____

Title: _____

Office Location: _____

Mailing Address: _____

* Telephone Number: _____ Fax Number: _____

Email Address: _____

** Emergency Contact Number for After-Hours Service: _____

*** A representative of the company must be available to answer phone calls from City Monday through Friday, 8:30 A.M. to 4:30 P.M. (Central Time).**

7. If awarded, Proposer shall indicate preferred method for which City is to notify Awarded Contractor of purchase orders:

Purchase Orders shall be communicated via: *(check all that apply)* ___ Phone ___ Fax ___ Email

Contact Person: _____

Phone: _____

Fax: _____

Email Address: _____

8. This is not a mandatory requirement of a contract award, but rather fact gathering of payment options:

Question: If awarded, will your company accept being paid by credit card?

Yes **No**

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RESPONDENT CERTIFICATIONS

To demonstrate qualifications to perform the scope of services, each Respondent is required to submit the following information to Owner for consideration.

Answer all questions. Provide responses that are clear and comprehensive. Attach any additional information provided on separate sheets.

DEBARMENT/SUSPENSION INFORMATION:

1. Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity or is Respondent listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>?
 Yes **No**

If yes, identify in an attachment the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, or listed at [epls.gov](http://www.epls.gov) and state the reason for or circumstances surrounding the debarment, suspension or ineligible for federal procurement, including but not limited to the period of time for such debarment, suspension or ineligibility.

CERTIFICATIONS:

1. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. **Yes** **No**
 - A. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the solicitation process or in the Contract execution;
 - B. "fraudulent practice" means an intentional misrepresentation of facts made
 1. to influence the solicitation process or the execution of the Contract to the detriment of Owner,
 2. to establish Cost Proposal or Contract prices at artificial non-competitive levels, or
 3. to deprive Owner of the benefits of free and open competition;
 - C. "collusive practice" means a scheme or arrangement between two or more Respondents, with or without the knowledge of Owner, a purpose of which is to establish Cost Proposals at artificial, non-competitive levels; and
 - D. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the solicitation process or affect the execution of the Contract.

2. NON-COLLUSION CERTIFICATION:

- A. Non-Collusion Certification: Do you certify that all of the following are true and correct concerning your company's cost Proposal? **Yes** **No**
 1. That you are fully informed of the contents of the solicitation and the circumstances of its preparation;
 2. That your cost Proposal is genuine and is not a collusive or sham cost Proposal;
 3. That neither you nor anyone else acting on behalf of your company has agreed, colluded,

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or conspired in any manner with any other respondent, firm or person to submit a collusive or sham cost Proposal, or to refrain from responding, or sought by communication or conference with any other respondent, firm or person to fix the prices, overhead, profit, or any cost element in your cost Proposal or in any other cost Proposal, or to secure through any collusion, conspiracy, or agreement any advantage against the City of New Braunfels or any other respondent; and

4. The prices quoted in your cost Proposal are fair and proper and are not affected by any collusion, conspiracy, connivance or unlawful agreement on the part of your company or anyone acting on its behalf.

3. HOUSE BILL 89 VERIFICATION:

- A. Contractor shall verify that it's named company, under the provisions of Subtitle F Title 10 Government Code Chapter 2270: **Yes** **No**

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Sections 2270.001, 2270.002, 808.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

SEE NEXT PAGE FOR ACKNOWLEDGEMENT

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ACKNOWLEDGEMENT

THE STATE OF
TEXAS COUNTY
OF COMAL

I certify that I have read all of the specifications and general contract requirements and do hereby certify that all items submitted meet specifications. I certify that my responses and the information provided are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations in this Questionnaire, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me in this questionnaire may be investigated and I hereby give my full permission for any such investigation and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my response to this solicitation to be rejected.

Company's Name

Signature, Authorized Representative of Respondent

Title