

CITY OF NEW BRAUNFELS



REQUEST FOR PROPOSALS

COMPREHENSIVE SIGN PROGRAM FOR COMAL RIVER AND RIVER PARKS

Solicitation # RFP 22-016

Date Issued: February 10, 2022

RESPONSES MUST BE RECEIVED **NO LATER THAN:**
3:00 P.M. CST March 8, 2022

New Braunfels Purchasing Department: Phone: 830-221-4389
Email: bcoleman@nbtexas.org



SOLICITATION AND OFFER

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

| | | |
|---|--|--|
| Solicitation Number: RFP 22-016 Comprehensive Sign Program for Comal River and River Parks | <input type="checkbox"/> Invitation for Bid (IFB) <input checked="" type="checkbox"/> Request for Proposals (RFP) | Date Issued: February 10, 2022 |
|---|--|--|

SOLICITATION

Questions may be submitted until close of day **February 23, 2022, 5:00 P.M. (Central Time)**
 Respondents must submit sealed SOQ containing one (1) signed original hardcopy and one (1) in electronic format (USB).
 Qualifications will be received at the office of the City Secretary at the address shown above until: **3:00 P.M. (CST), March 8, 2022**
 Qualifications received after the time and date set for submission will be returned, unopened, upon request.

| | | |
|--|---|---|
| For information regarding this solicitation, contact: <small>(NO collect calls, Telegraphic, Email, On-Line or Fax offers accepted)</small> | Barbara Coleman Purchasing Manager 830-221-4389 | Email: BColeman@nbtexas.org |
|--|---|---|

| | | | |
|---------------------------------|------------------------------|--|--|
| 5% Proposal Bond Required: | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO | |
| 100% Payment Bond Required: | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO | |
| 100% Performance Bond Required: | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO | |

OFFER

(This portion must be fully completed by Proposer.) Respondent will comply with the General Terms and Conditions required by the City of New Braunfels.
In compliance with the above, upon contract award the undersigned offers and agrees to furnish any or all items or services awarded for each item delivered at the designated point(s) and within the time specified herein.
 CONTRACT AWARD SHALL INCLUDE ALL ASSOCIATED SOLICITATION DOCUMENTS, ATTACHMENTS AND ADDENDA.
 SIGNATURE IS MANDATORY; **MANUALLY SIGN** ORIGINAL DOCUMENT, SIGNATURE SHOULD ALSO BE REFLECTED ON USB COPY.

| | |
|--|---|
| Name and Address of Respondent: | Name and Title of Person Authorized to Sign Offer: E-Mail Address: Phone Number: Fax Number: |
|--|---|

| | |
|------------|-------|
| Signature: | Date: |
|------------|-------|

| | |
|---|--|
| Name, Address and Telephone Number of Person authorized to conduct negotiations on behalf of Respondent. <small>(Applies to Request for Proposal only)</small> | |
|---|--|

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SECTION 3

RFP INSTRUCTIONS FOR PROPOSAL

3.1 AVAILABLE DOCUMENTS

Solicitation documents may be obtained from:

- the BidNet Direct website: <https://www.bidnetdirect.com/texas/city-of-new-braunfels>
- the City of New Braunfels' website: <http://nbtexas.org/DocumentCenter/Home/Index/139>
- or upon request by email: BColeman@nbtexas.org

Questions relating to definitions, interpretations, and/or requests for clarification must be in writing and directed to: BColeman@nbtexas.org

3.2 SUBMISSION OF PROPOSALS

- (a) Electronic Bidding. The City of New Braunfels has partnered with its third-party vendor, Texas Purchasing Group (BidNet Direct) as its e-procurement site. For this Request for Proposal, electronic bid submission is another option available to Proposers. 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 bid, please contact BidNet at (800) 835-4603, Option 2, to speak with live customer support.

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

- (b) Deliver your Proposal, or changes to your Proposal, in SEALED ENVELOPES OR PACKAGES identified on outside as a Request for Proposal to Owner, with Respondent's name and address, and solicitation name. Failure to submit Proposal in this manner may subject Respondent to disqualification. **Proposal 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**:

**"RFP 22-016 Comprehensive Sign Program"
Proposal Due Date: March 8, 2022, 3:00 P.M. CT"**

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.**

- (c) An authorized official of the firm must print or type their name and **MANUALLY SIGN THE ORIGINAL PROPOSAL, AND USB COPY MUST REFLECT THE SAME SIGNATURE.**
- (d) Proposals may not be withdrawn after the time set for the closing, unless approved by the City.
- (e) Your offer or a modification to your offer is LATE if received after the time set for Proposal

opening and will not be considered.

- (f) 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 Representative, via email only, on or before seven (7) calendar days prior to scheduled opening of Proposals. Late requests will not be honored. Timely requests will be interpreted or otherwise clarified by issuance of an addendum 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.
- (g) 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.

A consultant wishing to be considered for a contract is requested to submit on the consultant/firm's letterhead, a statement which provides information on the following points, numbered and headed as indicated. The statements that follow request information that the Evaluation Committee will use to evaluate the RFP. Should you opt not to follow the suggested outline, it may result in the Proposal being considered 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 with **one (1) original master (marked 'original'), and one signed USB electronic copy of all documents listed below. If submitting an electronic bid through BidNet, an original hardcopy and USB will not be required.**

Each Proposal completed and signed by person(s) authorized to bind individual, partnership, firm, corporation, or any other legal entity, will include the following in one envelope/package:

- **TAB 1 Solicitation and Offer Form:** Complete and sign form located on Page 1.
- **TAB 2 Acknowledgment of any Addendum issued on this solicitation,** 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 Information and Qualifications of Firm** – (Refer to Section 5.1.A)
 - a. Qualifications of the Firm
 - b. Qualifications and experience of principals assigned to the project
- **TAB 5 Understanding of the Project and City's Objectives**
 - Tab 5 A – Description of Prime Firms understanding of the project- (Refer to Section 5.1.B)
 - Tab 5 B – Team's Project Experience: Prime Firm and Sub-Consultants- (Refer to Section 5.1.C)
 - Include description of similar work completed in nature – at least four similar projects
 - Tab 5 C – Contact information and references for the above similar projects. - (Refer to Section 5.1.C)
 - Tab 5 D - Include the following attachments Include the following attachments:
 - **ATTACHMENT B – COMPANY INFORMATION; and**
 - **ATTACHMENT C – RESPONDENT CERTIFICATIONS**
 - **NOTE: Failure to submit Attachments A and B & C will deem your proposal non-responsive.**

- **TAB 6 Project Timeline and Approach to develop requested items-** (Refer to Section 5.1.D)
- **TAB 7 Cost Proposal Form** – (Refer to Section 5.3.1.E) Attachment A
- **TAB 8 Additional Supporting Documentation**
 - Prime and Sub-Consultants: Conflict of Interest Form (per Section 6.15)
 - Prime Consultant: Certificate of Interested Parties – Form 1295 (per Section 6.16)
 - Prime Consultant: Proof of Insurance: One copy completed and signed. A “for information purposes only” copy is acceptable. The awarded Contractor will be required to provide their certificate of insurance prior to contract award.
 - Attach copies of contractor’s license, certifications, or any other documentation not referenced under another tab.
- **TAB 9 Deviations from Request for Proposal** – (Reference Attachment E- EXCEPTIONS AND ALTERNATIVES FORM
 - Proposer is to indicate any deviations being offered in lieu of specified language referenced in the solicitation.

3.3 PROPOSED SOLICITATION SCHEDULE

| DATE | MILESTONE |
|--------------------|---|
| February 10, 2022 | RFP issued on https://www.bidnetdirect.com/texas/city-of-new-braunfels and http://nbtexas.org/DocumentCenter/Home/Index/139 |
| February 23, 2022 | Deadline to receive questions shall be 5:00 P.M. |
| March 8, 2022 | Proposal submission deadline – 3:00 P.M. |
| March – April 2022 | City Council considers award |
| April 2022 | Anticipated Contract |

3.4 CONTACT FOR QUESTIONS

All *questions* concerning this solicitation shall be in writing, on or before **October 22, 2021**, to:

Purchasing Representative: Barbara Coleman, Purchasing Manager, via email BColeman@nbtexas.org

All questions and/or clarification submittals shall identify the RFP in the subject line of the email message as follows:

Questions – RFP 22-016 Comprehensive Sign Program”

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 on page 1. Any such contact may be cause for rejection of your Proposal.

3.5 RESPONSES TO QUESTIONS/INQUIRIES

Responses to questions/inquiries that directly affect an interpretation or change to this RFP will be issued in writing by Purchasing as an addendum and posted at <https://www.bidnetdirect.com/texas/city-of-new-braunfels> and the City’s website <http://nbtexas.org/DocumentCenter/Home/Index/139>. All such addenda issued by the Purchasing Representative before the time that Proposals are received shall be considered part of the RFP.

Only those inquiries the Purchasing Office replies to by addenda shall be binding. Oral and other

interpretations or clarifications will be without legal effect.

Respondents shall be responsible for monitoring the City's website at <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. The City will not be held responsible for any further communication beyond updating the website.

3.6 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.

3.7 EXCEPTIONS AND DEVIATIONS

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

3.8 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.

3.9 WHAT IS NOT ACCEPTED

A Proposal submitted by facsimile transmission (FAX) or by electronic mail (EMAIL) will **NOT** be accepted. A Proposal response received **AFTER** the deadline (as stated above) for submitting the Proposal response will **NOT** be considered under any circumstances and will be returned unopened to the submitter.

SECTION 4

PROJECT DESCRIPTION AND SCOPE OF WORK

4.1 BACKGROUND:

The City of New Braunfels is seeking a qualified firm to develop a comprehensive warning and informational sign program for the Comal River and River Parks, complete with data driven recommendations on where signs should be installed, what they should look like, and what they should say in order to be most effective.

The sign plan will focus on the City of New Braunfels properties around the Comal River- Prince Solms Park, Hinman Island Park, City Tube Chute Park, Garden Street Bridge Exit, Last Public Exit, and the Last Exit Shuttle Zone. A variety of warning and informational signage exists in these areas, as pictured below, however the abundance of signs and lack of cohesiveness has reduced their effectiveness. It is important that visitors are receiving the information on these signs, which will require significant to total sign replacement based on the recommendations coming from this project. Deliverables will include design of necessary signage, a map of where each sign should be located, and a document explaining why.

SAFETY SIGNAGE



4.2. ABOUT THE CITY OF NEW BRAUNFELS- RIVER AND PARK OPERATIONS

The City of New Braunfels welcomes over 400,000 river visitors on summer season. Some of these visitors go to a River Outfitter to rent equipment and receive some instruction, while others come directly to the City of New Braunfels parks for river access. There are many visitors who use the parks for picnicking and general river use. Additionally, the City Tube Chute facility is located in Prince Solms Park on the Comal River and visitors often confuse this entry with general park entry.

Visitors often misunderstand the dangers of being in a natural waterway, versus a controlled

environment like a pool or water park. There are a variety of regulations, policies and ordinances that must be relayed to both types of visitors. Components of river operations include paid parking, free life jacket borrowing stations, the Tube Chute, River Management Fees on weekend and holidays during the summer months, natural waterway hazards, and river rules such as the Disposable Container Ban. Park operation rules/regulations include no open containers of alcohol, no personal grills allowed, park hours, table use fees, and various other park rules.

4.3.1 Project Deliverables

1. Sign Designs to include engineered shop drawings for each of the sign elements for approval with an explanation as to why that design is effective.
2. Map to showing recommended sign locations for each sign design.
3. Recommendations for type of installation at the different locations identified in the sign designs and map of locations.
4. Cost estimations for sign program. Cost estimations will include fabrication, installation and any other factors required such as mobilization to build the project. This will be used for budget purposes only; there is not commitment to the elected vendor to provide this service.
5. The project completion is established as September 15, 2022. The proposed timeline and approach shall support this completion date. Identify milestones necessary to accomplish the completion by September 15, 2022.

Phase 1 - Stakeholder meetings

Phase 2 - Site evaluation

Phase 3 - Development of deliverable – Due September 15, 2022.

4.3.2 Cost and Work Hours

In your response to this proposal, please provide the following:

1. Estimated Hours by Phase: Include details by task, including the time required for meetings, conference calls, etc. If your plan requires additional phases or milestone they may be added.
2. Cost by Phase: Provide the cost of each Phase identified herein. Provide a total not to exceed cost. If other additional services/deliverables are required, price them separately. If your plan requires additional phases or milestones the costing should be added to align.
3. Schedule of Rates: Provide a schedule of billing rates by category of employee and job title to be used during the term of the Agreement.

The fee schedule will be used as a basis for determining fees should additional services be necessary. Include a per meeting rate in the event additional meetings are needed. A fee schedule for subconsultants/subcontractors, if used, shall be included.

4. All direct costs e.g., travel, printing, postage, etc., that are specifically attributed to the project and not included in the billing rates must be identified. Reasonable expenses will be reimbursable as per the current rates found at www.gsa.gov. Consultant will be required to provide original receipts to the City for all travel expenses.

SECTION 5

QUALIFICATIONS AND EVALUATION CRITERIA

5.1 SELECTION PROCESS

It is the intent of the City to make a single award on this solicitation, based on evaluation criteria listed in this solicitation and proposer's submitted proposal.

The City's evaluation team will rank consultants meeting the evaluation criteria and the requirements of the needed services outlined in the solicitation and as outlined in the respondent's proposal.

The consultant selected for award will be awarded an Agreement to provide services as specified

Evaluation Criteria:

Limit response to 4 double-sided or 8 single-sided pages and minimum 10-pt font.

A. 25 Points: Qualifications – PROVIDE IN TAB 4

Provided qualifications and experience of the firm and specific experience of principals assigned to the project. The extent to which the firm has personnel with the necessary relevant experience and training to perform the work being requested through this solicitation. Please provide short resumes of key personnel to work on this contract. List any sub-consultants intended to be used and a brief description of their qualifications, expertise, licensing, and/or certification.

B. 20 Points: Understanding of the Project and City's Objectives - PROVIDE IN TAB 5A

C. 20 Points: Previous Experience/Performance – PROVIDE IN TAB 5B

Experience with similar projects. Prior performance with the City of New Braunfels may also be a consideration. Include brief descriptions of at least four similar *projects* previously conducted, including current status including contact information and references- provide in Tab 5.C.

D. 15 Points: Timeline and Recommended Approach to Project – PROVIDE IN TAB 6

The firm shall submit information in a brief narrative that clearly and concisely describes the organization and approach to the project. This includes a proposed scope of work and a timeline for major tasks.

E. 20 Points: Cost Proposal and Work Hours

F. 15 Points: Interviews (OPTIONAL-above the base score of 100)

The City may determine that it is necessary to interview short-listed firms prior to making a recommendation to the City Council. Staff intends to use the following guidelines for the option process:

- The number of firms interviewed will depend on the closeness of the scores following evaluation of the written proposals.
- Staff will consider significant gaps in point separation between the top ranked firms in determining the number of firms to be interviewed.

- Only firms that are considered qualified to perform the work, on the basis of their written proposal, will be invited for interviews.
- No more than five firms will be interviewed.
- Staff may conduct interviews in other cases where staff believes it is in the best interest of the City.
- The City reserves the right to determine whether an interview will be conducted for every solicitation/project.

G. **Pass/Fail: Availability (PROVIDE IN TAB 2)** –The firm must be able to start the project immediately and complete all work as specified. Please include availability and ability to commit to successful and expeditious completion of the management and administrative work.

H. **TOTAL POSSIBLE POINTS: 100 (up to 115 if interviews are conducted)**

5.3.2 Presentations/Interviews – (weighted at 15 points): After the proposals have been initially ranked based solely upon the selection criteria above, the City, in its sole discretion, may conduct oral interviews of respondents. The number of respondents invited to interview will depend on the scores following evaluation of the written proposal responses. Only the highest ranked Respondents that are, on the basis of their written proposal, qualified to perform the work will be invited for interviews. No more than five (5) Proposers will be interviewed. If the City chooses to conduct interviews, selected Proposers will be notified of the time and place for the interview; the interview format and agenda; and individuals from the firm expected to participate in the interview as a minimum standard. Failure to participate in the interview, if requested, may result in disqualification of the proposal. Respondents selected for interview will be scored based on the interview for a maximum score of 15 points. The interview points will be added to the initial proposal score for final total score, on which the final rankings will be based. The City reserves its right to reevaluate or rescore any submission post-interview based on information learned during the interview process that is materially different than the Proposer's original submission.

5.3.3 Other Considerations. The City reserves the right to request additional information or 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 RFP or subsequent contract, and any working relationships, past or present, a respondent may have with its other clients.

5.3.4 Respondent should be aware that the contents of the successful Proposal response will become part of subsequent contractual documents.

5.3.5 Opened Proposal. A submittal may not be opened before the closing date for the purpose of changing or amending the submittal or to correct an error in the submittal terms or conditions. If the submittal is opened before the closing date by anyone other than the City, the submittal may be rejected in its entirety by the City.

5.3.6 Additional Information. At your option, provide in your Qualifications any contractual language, terms, conditions, considerations, or contingencies your company would request or

require to be included in the negotiated contract between the City and the selected submitter, should your company be awarded a contract. Approval of such language, terms, conditions, considerations, or contingencies offered by a submitter remains with the City and in all cases the City's decision is final.

5.4 LIMITATIONS

5.4.1 Right to Accept or Reject. The City reserves the right to reject any or all submittals, to waive informalities and accept the submittal that the Owner believes is the most advantageous to the public interest and in keeping with the local government project procedures. The RFP does not commit the City to award a contract, issue a purchase order, or pay any costs incurred in the preparation of a submission in response to this RFP.

5.4.2 Solicitation to Remain Subject to Acceptance. All solicitations will remain subject to acceptance for one hundred twenty (120) days after opening without taking action.

5.4.3 City Council Approval Required. The City of New Braunfels City Council must approve the consultant selected to provide the services requested in this RFP. The City reserves the right to authorize contract negotiations to begin without further discussion with consultants submitting a response. Therefore, each Proposal should be submitted as completely and accurately as possible. The City reserves the right to request additional data, oral discussions, or presentations in support of the written Proposal.

5.4.4 Consultant's Obligation Regarding Evaluation:

a. Submission of Information. Submitters are cautioned that it is each consultants sole responsibility to submit information related to the evaluation categories, and the City is under no obligation to solicit such information if it is not included with the Proposal. Failure of a consultant to submit such information may cause an adverse impact on the evaluation of the specific Proposal.

b. Submitter Review of RFP. Submitters are responsible for examining and being familiar with all specifications, terms, conditions, provisions, and instructions of the RFP and their responses. Failure to do so will be at the consultants' risk and will not be a determinative factor when awarding the contract for services.

5.4.5 Oral Non-Binding. Any non-written representations, explanations, or instructions given by City staff or City agents are not binding and do not form a part of, or alter in any way, the RFP, a written agreement pertinent to the RFP, or the awarding of the contract.

5.4.6 Lobbying Prohibited. Proponents are prohibited from directly or indirectly communicating with City Council members regarding the Proponent's qualifications or any other matter related to the eventual award of a contract for the services requested under this RFP. Proponents are prohibited from contacting city staff members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff member. Any violation will result in immediate disqualification of the proponent from the selection process.

5.5 PROPOSAL SPECIFICATIONS

5.5.1 Modification or Withdrawal of Proposal. Proposals cannot be altered or amended after the submittal deadline. Proposals may be modified prior to the deadline only by providing a written notice (by mail or email) to the Purchasing Representative at the address shown herein. A

submitter's Proposal may also be withdrawn in writing by providing the same notice by a submitter or the submitter's authorized agent, providing the agents identify is made known and the agent signs the request to withdraw Proposal. **HOWEVER, IN THE EVENT OF WITHDRAWAL, THE SUBMITTER WILL NOT BE ALLOWED TO RESUBMIT.** This provision does not change the common law right of a proposer to withdraw a Proposal due to a material mistake in the Proposal.

5.5.2 Inquiries. In order to ensure fair and objective evaluation, all questions related to this RFP should be addressed only to the persons named in Section 4.1 of this solicitation.

5.5.3 RFP Interpretation; Addendum. Any interpretations, corrections, or changes to this RFP will be made by addenda through:

- <https://www.bidnetdirect.com/texas/city-of-new-braunfels>
- and the City Website: <http://nbtexas.org/DocumentCenter/Home/Index/139>

Submitters shall acknowledge receipt of all addenda per the instructions to be attached to addenda.

SECTION 6

CONTRACT TERMS AND CONDITIONS

6.1 CONTRACT TERM

This contract shall begin upon the execution of the contract, or the begin date specified in contract award, and will remain effect until work is satisfactory completed.

6.2 CONTRACT CHANGES

The City Purchasing 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.

6.3 DESIGNATED CITY HOLIDAYS

No deliveries or services will be required or accepted, unless specific prior arrangements have been made, on designated holidays as per the City's approved holiday schedule.

| <u>2022 HOLIDAYS</u> | | |
|--|----------|--------------------|
| New Year's Day | Saturday | January 1, 2022 |
| Martin Luther King, Jr. Day | Monday | January 17, 2022 |
| President's Day | Monday | February 21, 2022 |
| New Braunfels Founder's Day | Friday | April 15, 2022 |
| Memorial Day | Monday | May 30, 2022 |
| Independence Day | Monday | July 4, 2022 |
| Labor Day | Monday | September 5, 2022 |
| September 11 Remembrance Day (Uniform Fire Dept. Personnel Only) | Friday | September 9, 2022 |
| Comal County Fair Day (Excluding Uniform Fire Dept. Personnel) | Friday | September 23, 2022 |
| Thanksgiving Day | Thursday | November 24, 2022 |
| Day after Thanksgiving | Friday | November 25, 2022 |
| Christmas Eve | Friday | December 23, 2022 |

6.4 CONTRACT

The contracted proposer will be selected based on the highest final score and any other criteria as outlined within the Request For Proposal (RFP). Quantities, services, and prices listed in the Scope

of Work and in the Respondent's response to this RFP may be subject to negotiation. Any agreements resulting from negotiation that differ from what is presented in this RFP or in the Respondent's response shall be documented and included as a part of the final contract.

In the event that negotiations are conducted, and an agreement cannot be reached, the City reserves the right to enter into negotiations with the next highest ranked proponent without the need to repeat the formal solicitation process. After negotiation with the top-ranked proposer and upon staff recommendation, a contract will be defined, and an award recommendation will be presented to the New Braunfels City Council. The New Braunfels City Council will approve the final award of a contract for the services to be performed in accordance with this RFP. Submission of a Proposal indicates acceptance by the proposer of the conditions contained in this RFP unless clearly and specifically noted in the Proposal submitted and confirmed in the contract between the City of New Braunfels and the proposer selected. The City of New Braunfels reserves the right without prejudice to reject any or all Proposals.

Refer to Attachment D to view sample City of New Braunfels' Professional Services Agreement to be signed by both parties if awarded a contract through this solicitation.

6.5 ELEMENTS OF CONTRACT

6.5.1 RFP. This Request for Proposals is an invitation for individuals and companies to submit Proposal.

6.5.2 Award is Acceptance. The selection of a consultant and award of an agreement by the New Braunfels' City Council based upon acceptance on the part of the City, thereby resulting in a binding agreement between the City and the selected consultant or individual.

6.5.3 Consideration. Consideration consists of the services to be performed under the contract awarded in exchange for compensation, based upon a final negotiated price, to be paid by the City to the selected consultant.

6.5.4 Agreement; Exceptions.

- a. Submission of a Proposal is a representation by a submitter that the submitting firm or individual agrees to the terms, conditions, and other provisions contained in the RFP, unless the submitter clearly and specifically presents in its Proposal any exceptions to the terms, conditions, and other provisions contained in the RFP.
- b. Exceptions presented in a Proposal are not to be considered incorporated into the agreement between the City and the selected firm or individual unless and until the City agrees to accept such exceptions.
- c. The selected proposer must acknowledge and agree that the negotiated agreement resulting from this RFP includes the terms, conditions, and other provisions contained in the RFP, the Proposal selected (including any exceptions accepted by the City) which is acceptable to the City and is not in conflict or contravention of the RFP, and any other documents mutually agreed upon by the City and the selected proposer. Said terms and conditions shall be applicable during the entire contract term.
- d. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFP or the resulting negotiated contract.

6.6 RIGHT TO TERMINATE: NOTICE REQUIREMENT

The City reserves the right to terminate the contract with the selected proposer for any reason or for no reason (without cause) during the term of the contract, or during any renewal, extension or amendment, by giving thirty (30) days written notice of such intention to terminate the contract to the selected submitter.

6.7 SELECTED PROPOSER OBLIGATION TO MAKE REPORTS

The Proposer selected and awarded an agreement under this RFP shall be obligated as follows:

- a. The selected Proposer shall advise the City of errors or other discrepancies coming under observation during the progress of the services performed under the contract.
- b. The selected Proposer shall submit monthly reports to the City's designated contract manager.

6.8 Assignment; Transfer. The selected Proposer shall not sell, assign, transfer, or convey any contract or other benefits resulting from this RFP, in whole or in part, without the prior written consent of the City.

6.9 FORCE MAJEURE

- a. In the event performance by the selected Proposer of its obligations under this contract shall be interrupted or delayed by or as a consequence of a fire, flood, or other act of God, war, insurrection, civil disturbance, or act of state, the selected Proposer shall be excused from such performance for the period of time such occurrence shall have lasted or such period as is reasonably necessary to rebuild or take other action necessary to resume performance. The period of time reasonably necessary to rebuild or take other action necessary to resume performance shall be as determined by the agreement of the parties, which agreement shall be negotiated and arrived at in good faith.
- b. Selected Proposer shall notify the City of any matter covered above, the occurrence of which interferes or threatens to interfere with the performance of any of its obligations under the contract. Upon such notice, the selected Proposer and the City shall consult and cooperate as to measures which may be taken to overcome the interference or as to alternative measures which may be undertaken by the parties with a view to the continued performance of the contract.

6.10 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:

- 1. Name City of New Braunfels as additional insured/or an insured, as its interests may appear.
- 2. 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.

3. Provide City of New Braunfels with a thirty (30) day advance written notice of cancellation or material change to said insurance.
4. Provide a Certificate of Insurance evidencing required coverage within ten (10) days after receipt of Notice of Award to the City's Finance Department, to the attention of the Purchasing Representative noted on Page 1 of this solicitation.
5. Submit a certificate of insurance reflecting coverage as follows:
 - a. Automobile Liability

| | | |
|---|---|-------------|
| Bodily Injury/Property Damage (combined single limit, each incident) | - | \$1,000,000 |
| Personal Injury Protection (PIP) | - | \$ 5,000 |
 - b. Commercial General Liability (Including Contractual Liability)

| | | |
|---|---|-------------|
| General Aggregate | - | \$1,000,000 |
| Products/Completed Operations Aggregate | - | \$1,000,000 |
| Each Occurrence | - | \$ 500,000 |
| Personal/Advertising Injury | - | \$ 500,000 |
| Medical Payments (Any One Person) | - | \$ 5,000 |
| Property Damage | - | \$ 100,000 |
 - c. Professional Liability Errors and Omissions

| | | |
|----------------|---|------------|
| Per Occurrence | - | \$ 300,000 |
| Aggregate | - | \$ 500,000 |
 - d. Worker's Compensation

| | | |
|--------------------------|---|-------------------------|
| Employers Liability | - | As Statutorily required |
| Each Accident | - | \$1,000,000 |
| Policy Limit by Disease | - | \$1,000,000 |
| Each Employee by Disease | - | \$1,000,000 |

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.

6.11 PAYMENT AND INVOICING REQUIREMENTS

- (a) Payments. 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.

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

Email Address: AccountingTechnicians@nbtexas.org

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.

6.12 INDEPENDENT CONTRACTOR

The selected Proposer will be an independent contractor under the contract. Professional services provided by the selected Proposer shall be by the employees or authorized subcontractors of the selected Proposer and subject to supervision by the selected Proposer, and not as officers, employees or agents of the City. Selected Proposer will be required and agrees to comply with all state and federal employment laws as well as all other federal, state and local laws, rules and regulations affecting the performance of all obligations taken herein.

6.13 SUSTAINED DAMAGES

In the event the City terminates the awarded contract for any reason, the selected Proposer shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the contract by the selected Proposer or otherwise, and the City may withhold any payments to the selected Proposer for the purpose of an offset until such time as the amount of damages due the City from the selected Proposer can be determined.

6.14 CONFIDENTIALITY OF DOCUMENTS

- a. ALL STATEMENTS OF QUALIFICATION SUBMITTED WILL BE SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT.

- b. In the event a request for public information is filed with the City, which involves a Proposer's proprietary information submitted to the City in a proposal, the Proposer affected by such public information request will be notified by the City of the request in order to give the affected Proposer an opportunity to respond to the request.
- c. On each page where confidential information appears, the Proposer must label the confidential information. Failure to so label the confidential information shall be considered as a waiver of any confidentiality rights or interests by said Proposer.
- d. Marking your entire Proposal *CONFIDENTIAL/PROPRIETARY* is **not** in conformance with the Texas Open Records Act.

6.15 SUBCONTRACTING PROPOSAL

If subcontracting with another company or an individual on this project, this must be identified in your proposal, and the subcontractor's credentials must be submitted with your proposal for the City's review and evaluation consideration.

6.16 INDEMNIFICATION

Consultant hereby agrees to protect, indemnify and hold harmless the City, their officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of Consultant, its officers, employees, servants, agents or subcontractors, or anyone else under Consultant's, direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of any work or services called for by this Agreement, or from conditions created by the performance or non-performance of said work or services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, Consultant shall be obligated to indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

Consultant is not responsible for the actions of the City's contractor to perform the construction of the improvements covered under this Agreement.

Acceptance and approval of Proposer's documents received by the City shall not constitute nor be deemed a release of this responsibility and liability of Consultant, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the CITY for any defect in the designs, working drawings and specifications, or other documents prepared by Consultant, its employees, contractor, agents and consultants.

Consultant agrees that it is an independent contractor and not an agent of the City, and that Consultant is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve City of any responsibility or liability from treating Consultant's employees as employees of City for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or

contributions. Consultant further agrees to indemnify and hold City harmless and reimburse it for any expenses or liability incurred under said Statutes in connection with employees of Consultant.

Consultant shall defend and indemnify Indemnitees against and hold City and the premises harmless from any and all claims, suits or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred by Consultant in performing this Agreement.

6.17 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

6.18 MISCELLANEOUS

6.18.1 All costs directly or indirectly related to the preparation of a response to this Proposal shall be the sole responsibility of and shall be borne by the Proposer.

6.18.2 During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from Proposer, or to allow corrections of errors or omissions.

6.18.3 The City reserves the right to retain all proposals submitted and to use non-confidential information in a Proposal regardless of whether or not that RFP is selected.

6.18.4 Each RFP shall state that it is valid for a period of one hundred twenty (120) days from the date of opening of the RFP by the City.

6.19 NON-NEGOTIABLE TERMS

The following terms or conditions are not negotiable:

- a. **Unfunded Liability.** The City will not incur a debt or obligation to pay selected Proposer any amounts the City does not have the current funds available to pay, unless the contract includes a provision for the City to appropriate funding for the debt or obligation.
- b. **Advance Payments.** The City will not make advance payments to a selected Proposer or any third party pursuant to this RFP or resulting contract.
- c. **Gift of Public Property.** The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Proposer.
- d. **Procurement Laws.** The City will not agree to any terms or conditions that cause the City to violate any federal, Texas, or local procurement laws, including its own charter.

- e. **Limitation of Liability.** The City will not agree to allow the selected Proposer to limit its liability for breach or default of contract to the contract amount or to the amount the City has paid up to the time of the breach or default.
- f. **Attorney's fees; Legal Costs.** The City will not agree to pay the selected Proposer attorney's fees or other legal costs under any circumstances.
- g. **Delinquent Payments; Interest.** The City will not consider a payment delinquent, which is made within 30 days of receipt of the selected Proposer's approved invoice, in accordance with Texas law. If the City does not pay what is due and owing within the 30 days, the City will not agree to pay more than 1% interest per month on the overdue amount, in accordance with Texas law.
- h. **Venue; Applicable Law.** This RFP and any resulting contract will be governed and construed according to the laws of the State of Texas. The terms and conditions of the contract awarded pursuant to the RFP are fully performable in Comal County, Texas and venue for any dispute regarding contract shall be in Comal County, Texas.

6.20 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, shall 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/filinginfo/conflict_forms.htm

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 proposal 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 response **in addition to** submitting a completed Form CIQ to the office of the City Secretary located at 550 Landa Street; New Braunfels, Texas 78130.

6.21 CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

A proponent that will be awarded a contract that is greater than \$25,000 is required to electronically create a Certificate of Interested Parties Form 1295 through the Texas Ethics Commission ("TEC") website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the City prior to the award of the contract. A contract, including a City-issued purchase order, will not be enforceable or legally binding until the City receives and acknowledges receipt of the properly completed Form 1295 from the vendor.

**SECTION 7
GENERAL TERMS AND CONDITIONS**

ATTACHMENT A

COST PROPOSAL FORM

Failure to complete this form may result in your Proposal being deemed non-responsive and rejected without any further evaluation.

OFFER TO: CITY OF NEW BRAUNFELS:

The Undersigned hereby offers and agrees to furnish the goods and/or services in compliance with all terms, scope of work, conditions, specifications, and addenda in the Request for Proposal.

ADDENDA:

The undersigned hereby acknowledges receipt of the following addenda to the Drawings and Specifications, all of the provisions and requirements of which addenda have been taken into consideration in the preparation of this Proposal.

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

OBLIGATION:

The undersigned, by submission of this Offer, hereby agrees to be obligated, if the Offer is accepted by the City of New Braunfels, to enter into a Contract to provide the stated goods and/or services for the term as stated herein in accordance with the Scope of Work, Specifications, and Terms and Conditions, together with any written Addenda as specified above and any negotiated terms. If this offer is accepted and signed by the City of New Braunfels, this RFP document, together with any written Addenda and any negotiated terms shall be (collectively) the contract.

NON-COLLUSION:

The undersigned, by submission of this Proposal Form and other required forms, hereby declares that this Proposal is made without collusion with any other business making any other Proposal, or which otherwise would make a Proposal.

SUBMITTAL REQUIREMENTS:

The undersigned certifies it has attached a complete response to each of the submittal requirements listed in the Evaluation Criteria and Submittal Requirements section of this RFP.

COST PROPOSAL FORM

- Provide Estimated Hours by Proposed Milestone. This will be all-inclusive, including time for meetings, conference calls, etc.
- Provide the Proposed Costs by Milestone. Attach a detailed explanation of how the cost was calculated for the proposed milestones.
- Provide a total not to exceed cost. The all-inclusive cost shall include labor, materials, equipment, for each phase.

| | Estimated Hours | Proposed Costs |
|--|------------------------|-----------------------|
| Proposed Phases or Milestones | | |
| Phase 1- Stakeholder meetings | Hours: _____ | \$ _____ |
| Proposed Phase 2 - Site evaluation | Hours: _____ | \$ _____ |
| Phase 3 - Development of deliverable | Hours: _____ | \$ _____ |
| Add additional Milestones as needed | Hours: _____ | \$ _____ |
| Total Fixed Lump Sum Costs: (Identify if this is a not to exceed fixed rate or cost basis) | Hours: _____ | \$ _____ |

- **Schedule of Rates** – Are scheduled billing rates by category of employee and job title attached to the proposal? Yes No
- **Direct Costs** – Are direct costs e.g., travel, printing, postage, etc. specifically attributed to the project and not included in the billing rates identified and attached to the proposal? Yes No

No proposal may be accepted which has not been signed in the appropriate space below:

I certify, under penalty of perjury, that I have the legal authorization to bind the Consultant/firm hereunder:

Company Name

Date

Signature of Person Authorized to Sign

Title

Printed Name

Email: _____

ATTACHMENT B
COMPANY INFORMATION

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: _____
- Provide a list of officers of the firm who, while in the employ of the firm or the employ of previous firms, were associated with contracts which resulted in lawsuits, contracts defaulted or filed for bankruptcy.
 - _____
 - _____
 - _____
- Complete **A** below if you are a non-resident Respondent (your company's principal place of business is not in Texas). **Resident Respondents must check box B.**
 - A:** Company is a non-resident Respondent. Its principal place of business is the state of _____
Check one of the following options:
 - Non-resident Respondents in the state of our principal place of business are required to propose ____ percent lower than resident Respondents by state law. A copy of the statute is attached.
 - Non-resident Respondents in the state of our principal place of business are not required to underbid resident Respondents in order to secure contract awards.
 - B:** Company's principal place of business or corporate offices is in the State of Texas.

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: _____

Mailing Address: _____

3. If applicable, provide a list of officers of the company who, while in the employ of the company or the employ of previous companies, were associated with contracts which resulted in law suits, contracts defaulted or filed for bankruptcy

4. 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, 8:00 A.M. to 5:00 P.M. (Central Time).**

5. If awarded, Respondent 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: _____

ATTACHMENT C

VENDOR CERTIFICATIONS

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

Provide responses that are clear and comprehensive.

Company name: _____
1.

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 listed below. Provide responses that are clear and comprehensive. Attach any additional information provided on separate sheets, if applicable.

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 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, 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. GOVERNMENT CODE TITLE 10 SUBTITLE F VERIFICATIONS:

- 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.
- B. 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.
- C. Pursuant to subtitle F, Chapter 2252, Texas Government code, contractor shall not do business with Iran, Sudan or a foreign terrorist organization while providing products or services to the City of New Braunfels. **Yes** **No**

SEE NEXT PAGE FOR ACKNOWLEDGEMENT

ACKNOWLEDGEMENT

THE STATE OF _____
COUNTY OF _____

I certify that I have read all of the specifications and general RFP requirements and do here by 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

ATTACHMENT D

**SAMPLE - PROFESSIONAL SERVICES AGREEMENT
COMPREHENSIVE SIGN PROGRAM FOR COMAL RIVER AND RIVER PARKS**

THIS AGREEMENT is entered into the _____ day of _____, 20____, by and between the CITY OF NEW BRAUNFELS, TEXAS, hereinafter referred to as CITY and _____, hereinafter referred to as “CONSULTANT”.

WHEREAS, CITY desires CONSULTANT to perform certain work and services set forth in Scope of Services, marked Exhibit “A”, and attached hereto and incorporated herein.

WHEREAS, the CONSULTANT has expressed a willingness to perform said work and services, hereinafter referred to only as “services”, specified in said Scope of Services, and enumerated under Article II, of this Agreement.

NOW, THEREFORE, all parties agree as follows:

I. GENERAL

CONSULTANT shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in Article II hereof for the CITY in accordance with the terms, conditions and provisions of the Scope of Services, marked Exhibit “A”, and attached hereto and incorporated herein for all purposes. CITY may, at any time, stop any services by the CONSULTANT upon giving CONSULTANT written notice. CONSULTANT shall be bound to CITY by the terms, conditions and responsibilities toward the CITY for CONSULTANT’S services set forth in this Agreement.

II. SERVICES

A. The following services, when authorized in writing by a Notice to Proceed, shall be performed by the CONSULTANT in accordance with the CITY’S requirements:

Consultant to develop a comprehensive warning and informational sign program for the Comal River and River Parks as negotiated with the City and specified in Scope of Work, Exhibit “A”, attached hereto and incorporated into this Agreement.

B. CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans and other services furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in the design, drawings, specifications, plans and other services.

C. Neither CITY’S review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver if any rights under this Agreement or if any cause of action arising out of the performance of this Agreement, and CONSULTANT shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONSULTANT’S negligent performance of any of the services furnished under this Agreement.

D. The rights and remedies of CITY under this Agreement are as provided by law.

III. PAYMENT

The parties agree that CONSULTANT shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit “B”. The contract amount specified shall not exceed \$_____. The contract amount specified in Exhibit “B” shall not be exceeded without written permission of the CITY.

IV. TIME FOR PERFORMANCE

A. CONSULTANT agrees to commence work immediately upon execution of this Agreement and to proceed diligently with said work, except for delays beyond the reasonable control of CONSULTANT, to completion as described in the Completion Schedule, attached hereto as Exhibit “C” and hereby made a part of this Agreement.

B. In the event CONSULTANT’S performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONSULTANT may request an extension of time for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays unless such delays exceed 90 days.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to the CONSULTANT, unless CONSULTANT shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONSULTANT have agreed in writing upon the allowance of additional time to be made.

V. DOCUMENTS

A. All instruments of service (including plans, specifications, drawings, reports, designs, computations, computer files, estimates, surveys, other data or work items, etc.) prepared under this Agreement shall be submitted for approval of the CITY. All instruments of service shall be professionally sealed as may be required by law or by CITY.

B. Such documents of service, together with necessary supporting documents, shall be delivered to CITY, and CITY shall have unlimited rights, for the benefit of CITY, in all instruments of service, including the right to use same on any other work of CITY without additional cost to CITY. If, in the event CITY uses such instruments of service on any work of CITY other than that specified in the Scope of Services, attached as Exhibit “A”, provided CONSULTANT completes this Agreement, under those circumstances CITY hereby agrees to protect, defend, indemnify and hold harmless the CONSULTANT, their officers, agents, servants and employees, from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any inaccuracy, such use of such instruments of service with respect to such other work except where CONSULTANT participates in such other work.

C. CONSULTANT agrees to and does hereby grant to CITY a royalty-free license to all such instruments of service which CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws. CONSULTANT, upon request, agrees to furnish the originals of all such instruments including electronic design files of service to the CITY.

D. All text documents supplied to CITY as provided herein shall be in Word 2018 or fully compatible with Word 2017. Unless otherwise requested all design drawings supplied to CITY as provided herein shall be in Adobe PDF and AutoCAD compatible DWG format, if applicable.

VI. TERMINATION

A. CITY or the CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the CONSULTANT. In the event suspension or termination is without cause, payment to the CONSULTANT, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by CITY to be satisfactorily performed to date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. Should the CITY require a modification of its contract with CONSULTANT, and in the event CITY and CONSULTANT fail to agree upon a modification to this Agreement, CITY or the CONSULTANT shall have the option of terminating this Agreement. Payment to CONSULTANT shall be made by the CITY in accordance with the terms of this Agreement, for the services mutually agreed upon by the CITY and the CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

VII. INSURANCE

A. CONSULTANT shall provide and maintain Workers Compensation with statutory limits.

B. CONSULTANT shall provide and maintain in full force and effect during the time of this Agreement, auto insurance (including, but not limited to, insurance covering the operation of owned and non-owned automobiles, trucks and other vehicles) protecting CONSULTANT and CITY as an additional Insured with limits not less than \$1,000,000 for Bodily Injury/Property Damage (Combined Single Limit, Each Incident) and \$5,000 for Personal Injury Protection (PIP).

C. CONSULTANT shall provide Commercial General Liability Insurance. Such insurance covering personal and bodily injuries or death shall be in the sum of not less than One Million Dollars (\$1,000,00) per occurrence and One Million Dollars (\$1,000,000.00) aggregate. Insurance covering damages to property shall be in the sum of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00). The general Liability Insurance must name the CITY as an additional Insured.

D. CONSULTANT shall also provide and maintain Professional Liability Errors and Omissions Insurance coverage to protect CONSULTANT and CITY from liability arising out of the performance of professional services, if any, under this Agreement. Such coverage shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Such insurance shall be kept in effect for four years after the completion of the contract. If CONSULTANT fails to maintain the insurance covered during that time, CITY may pay the premiums to keep the insurance in effect and recover the cost from the CONSULTANT.

E. A signed Certificate of Insurance, satisfactory to CITY, showing compliance with the requirements of this Article shall be furnished to CITY before any services are performed. Such Certificate shall provide 30 days written notice to CITY prior to the cancellation or modification of any insurance referred to therein and continue to issue such certificate for four years after completion of the contract.

VIII. INDEMNIFICATION FOR INJURY AND PERFORMANCE

A. CONSULTANT further specifically obligates itself to CITY in the following respects, to-wit:

B. The CONSULTANT hereby agrees to protect, indemnify and hold harmless the CITY, their officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of the CONSULTANT, its officers, employees, servants, agents or subcontractors, or anyone else under the CONSULTANT'S, direction and control, and arising out of, resulting from, or caused by the negligent performance or failure of performance of any work or services called for by this Agreement, or from conditions created by the negligent performance or non-performance of said work or services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, the CONSULTANT shall be obligated to indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

C. The CONSULTANT is not responsible for the actions of the CITY'S contractor to perform the construction of the improvements covered under this Agreement.

D. Acceptance and approval of the final plans by the CITY shall not constitute nor be deemed a release of this responsibility and liability of CONSULTANT, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the CITY for any defect in the designs, working drawings and specifications, or other documents prepared by CONSULTANT, its employees, contractor, agents and consultants.

IX. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION

CONSULTANT agrees that it is an independent contractor and not an agent of the CITY, and that CONSULTANT is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONSULTANT'S employees as employees of CITY for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. CONSULTANT further agrees to indemnify and hold CITY harmless and reimburse it for any expenses or liability incurred under said Statutes in connection with employees of CONSULTANT.

X. INDEMNIFICATION FOR PERFORMANCE

CONSULTANT shall defend and indemnify Indemnitees against and hold CITY and the premises harmless from any and all claims, suits or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred by CONSULTANT in performing this Agreement.

XI. ASSIGNMENT

CONSULTANT shall not assign or sublet this Agreement or any part thereof, without the written consent of City Manager. Sale of more than 50% ownership of CONSULTANT shall be construed as an assignment.

XII. APPLICABLE LAWS

CONSULTANT shall comply with all Federal, State, County and Municipal laws, ordinances, regulations, safety orders, resolutions and building codes, including the Americans With Disabilities Act, relating or applicable to services to be performed under this Agreement.

This Agreement is performable in the State of Texas and shall be governed by the laws of the State of Texas. Venue on any suit hereunder shall be in Comal County, Texas.

XIII. DEFAULT OF CONSULTANT

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by CITY to CONSULTANT, CITY may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of CONSULTANT to and from meetings called by CITY at which CONSULTANT is required to attend, but shall not include any loss of profit of CONSULTANT. In the event of such termination, CITY may proceed to complete the services in any manner deemed proper by CITY, either by the use of its own forces or by resubmitting to others. In either event, the CONSULTANT shall be liable for all costs in excess of the total contract price under this Agreement incurred to complete the services herein provided for and the costs so incurred may be deducted and paid by the owner out of such monies as may be due or that may thereafter become due to CONSULTANT under and by virtue of this Agreement.

B. CITY may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of the CONSULTANT.

XIV. ADJUSTMENTS IN SERVICES

No claims for extra services, additional services or changes in the services will be made by CONSULTANT without a written agreement with CITY prior to the performance of such services.

XV. EXECUTION BECOMES EFFECTIVE

This Agreement will be effective upon execution of the contract by and between CONSULTANT and CITY.

XVI. AGREEMENT AMENDMENTS

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended,

supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

XVII. GENDER AND NUMBER

The use of any gender in this Agreement shall be applicable to all genders, and the use of singular number shall include the plural and conversely.

XVIII. COMPLETE CONTRACT

This Agreement, including the Exhibits lettered “A” through “C”, constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

XIX. NOTICES AND AUTHORITY

A. The CONSULTANT agrees to send all notices required under this Agreement to the City Manager of the City of New Braunfels, or his designee, at 550 Landa Street, New Braunfels, Texas 78130. The CONSULTANT understands that only the City Manager or his designee has the authority to represent the CITY or bind the CITY under this Agreement.

B. The CITY agrees to send all notices required under this Agreement to the CONSULTANT at:

BY: _____
TITLE: _____
ADDRESS: _____

(Signatures on Following Page)

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and day first above written.

OWNER
THE CITY OF NEW BRAUNFELS

FIRM'S COMPANY NAME

BY: _____
Robert Camareno

BY: _____

TITLE: CITY MANAGER

TITLE: _____

ADDRESS:
550 Landa Street
New Braunfels, TX 78130

ADDRESS:

DRAFT

ATTACHMENT E

EXCEPTIONS AND ALTERNATIVES FORM

Failure to complete this form may result in your Proposal being deemed non-responsive and rejected without any further evaluation.

Proposers are to comply with all requirements of this solicitation, otherwise the proposal may be deemed non-responsive. Exceptions may be considered if they are presented with the proposal and if the City determines that the exception does not materially alter the intent of this solicitation or that it exceeds the requirements of this solicitation.

- No Exceptions Taken
- Exceptions Taken – *See attached (Include in Tab 10)
**Note that if any exceptions are taken, all required information must be submitted as an attachment*

In the event the Proposer takes exception to any language in this solicitation, they may set forth alternatives by presenting each exception separately by stating:

- a)** The specific item or clause for which an exception is requested (citing the page and item number).
- b)** The suggested change to the exception, inclusive of proposed new language if applicable.
- c)** An explanation as to how the proposed change would benefit the City and/or why the exception is necessary.

Except as may be indicated above, Proposer is in complete agreement with this entire solicitation including any proposed terms, conditions and business arrangements described herein.

(Authorized Signature)

Date

(Title)