

VENDOR RFQ CHECKLIST

1. _____ **Read the entire document.** Note critical items such as: mandatory requirements; supplies/services required; submittal dates; number of copies required for submittal; licensing requirements; contractual requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. _____ **Note the Contract Manager's name, address, phone number and email address.** This is the only person you are allowed to communicate with regarding the RFQ.
3. _____ **Attend the pre-proposal conference.** These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the Department of any ambiguities, inconsistencies, or errors in the RFQ. There are no minutes or recordings of these meetings.
4. _____ **Take advantage of the "question and answer" period.** Submit your questions to the contracts manager by the due date listed in the schedule and view the answers given in the formal addenda issued for the RFQ. All addenda issued for the RFQ are posted on the website at www.brookscity-base.com and will include all questions asked and responses concerning the RFQ.
5. _____ **Follow the format required in the RFQ** when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. _____ **Provide complete answers/descriptions.** Read and answer **all** questions and requirements. Don't assume the Department or evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the Department. The proposals are evaluated based solely on the information and materials provided in your response.
7. _____ **Use the forms provided,** i.e., references form, conflict of interest questionnaire, etc.
8. _____ **Check the BDA website for RFQ Addenda.** It is the vendor's responsibility to check the BDA website at www.brookscity-base.com for any addenda issued for this RFQ.
9. _____ **Review and read the RFQ document again** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete. The copies are provided to the evaluation committee members and will be used to score your response.
10. _____ **Submit your response on time.** Note all the dates and times listed on the Schedule and within the document, and submit all required items on time. **Late proposal responses are not accepted.**

**REQUEST FOR QUALIFICATIONS (RFQ)
FOR
PROJECT MANAGEMENT/CONSTRUCTION MANAGEMENT SERVICES
Bid #01232013-004**

January 23, 2013

Proposals will be received by the BROOKS DEVELOPMENT AUTHORITY at 3201 Sidney Brooks, San Antonio, TX 78235 until 10AM CST, on February 14, 2013 for Project/Construction Management Services in accordance with the attached specifications.

Proposals may be downloaded at www.brookscity-base.com.

Envelopes containing sealed proposals are to be addressed as follows:

Brooks Development Authority- RFQ for Project Management / Construction
Management Services

ATTN: Sha-Rone V. Caffie-Reyes,
Purchasing and Contracts Manager
3201 Sidney Brooks
San Antonio, Texas 78235:

“BDA reserves the right to reject any or all Proposals and reserves the right to issue a subsequent RFQ or cancel the entire RFQ process. BDA reserves the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such clarification is deemed desirable by BDA. BDA reserves the right to evaluate the responses submitted, to waive any informalities and irregularities therein, to select candidates for interview, or to reject any or all submittals should it be deemed in BDA’s best interest. BDA reserves the right to negotiate with any, all or none of the Respondents.”



REQUEST FOR QUALIFICATIONS (RFQ)
TYPE OF BID

FOR

PROJECT MANAGEMENT/CONSTRUCTION MANAGEMENT SERVICES
BID #01232013-004
PROJECT

JANUARY 23, 2013
ISSUE DATE

FEBRUARY 6, 2013
10:00 AM

*MANDATORY PRE-PROPOSAL MEETING:
3201 Sidney Brooks
San Antonio, TX 78235

FINAL QUESTIONS ARE DUE BY 10 AM ON FEBRUARY 8, 2013. THERE WILL
BE NO EXCEPTIONS FOR LATE QUESTIONS.

RESPONSES TO ALL QUESTIONS WILL BE POSTED TO THE WEBSITE
BY THE END OF BUSINESS ON FEBRUARY 11, 2013.

FEBRUARY 14, 2013
10:00 AM
SUBMITTAL DEADLINE

***BDA will not take minutes or record this meeting.**

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**REQUEST FOR QUALIFICATIONS (RFQ)
FOR
PROJECT MANAGEMENT/CONSTRUCTION MANAGEMENT SERVICES
BROOKS DEVELOPMENT AUTHORITY (BDA)
SAN ANTONIO, TEXAS 78235**

I. GENERAL INFORMATION

The purpose of this RFQ is soliciting a qualified firm/individual to provide Project/Construction Management (PM) Services to support and coordinate all activities associated with a large, multi-acre Private Manufacturing Project (PMP) to include but not be limited to:

- a. With the development of a PMP to be located at Brooks City-Base; and
- b. Manage, on behalf of BDA, the complete development and delivery of the required public infrastructure project(s) determined as necessary to support the PMP.

BDA is a local public authority and political subdivision of the State of Texas created by the San Antonio City Council pursuant to the provisions of Chapter 379B of the Texas Local Government Code by resolution 2001-36-39. BDA focuses on developing partnerships and relationships that will enhance opportunities for emerging entrepreneurs as well as established leaders in bioscience, medical, education and government. Brooks City-Base (BC-B) is strategically located to allow tenants easy access to local, regional, national and international contacts, offers flexible leasing opportunities including build-to-suit sites. BDA is governed by an eleven (11) member board of directors appointed by the San Antonio City Council. BDA staff is charged with overseeing the management, marketing, and development, leasing and selling the real property of BC-B project. BDA's overall mission is to position BC-B as a premier location for science, research, technology and business through creative economic development.

II. SCOPE OF WORK (SOW)

See Appendix B.

III. SCHEDULE

The proposal phase schedule is as follows:

BDA releases RFQ	January 23, 2013
Mandatory Pre-Proposal Meeting	February 6, 2013 @10:00 am
*All questions due NLT	February 11, 2013 @10:00 am
Proposal due	February 14, 2013 @10:00 am

- i. Pre-proposal conference is **mandatory (BDA will not take minutes or record this meeting) and there will be no additional site visits for this project, no exceptions. Please bring everyone you feel should attend the meeting;**

- ii. Written questions may be submitted, but will not be answered individually. A comprehensive list of all inquires received by 10:00 am, February 8, 2013 will be answered and posted on the BDA website on February 11, 2013.

IV. PROCEDURES FOR SUBMISSION

Interested individuals and/or firms are invited to submit the following:

1. RFQ must be typewritten or computer generated. Handwritten RFQ's will not be accepted. Proposals, with or without attachments (i.e., resumes, copies of previous work, reports, etc.), should not be greater than 15 pages (8 1/2 x 11). Font should be no less than 12pt and all paragraphs single spaced.
 - BDA requests that only relevant information to the type of project be included.
 - Vast amounts of marketing material are discouraged and will count toward the 15 page maximum.
 - The Appendices do not count toward the 15 page limit.
2. Each RESPONDENT must submit:
 - One (1) hard copy of the proposal in a three ring binder, (including appendices) and one (1) CD-Rom or USB drive containing the proposal (without appendices) which specifically address the criteria as referenced on page 7; limited to 10 pages (**Do not include copies of the Appendices on the CD-ROM or USB drive. It is the responsibility of the bidder to ensure that all copies of the CD-ROMS or USB drives are readable and not corrupt**).
 - One complete copy of Appendices A-J should be included in the three ring binder. BDA requests that appendices not be manipulated with software. Typed or handwritten appendixes are acceptable.
3. RFQ must be submitted in a sealed envelope prior to 10:00 am on February 14, 2013 (**SUBMISSIONS WILL NOT BE ACCEPTED AFTER THIS DEADLINE. SUBMISSIONS TRANSMITTED BY FAX OR EMAIL WILL NOT BE ACCEPTED UNDER ANY CIRCUMSTANCES**), marked on the outside as follows:

Brooks Development Authority BID #01232013-004
Attn: Purchasing and Contracts Manager
3201 Sidney Brooks
San Antonio, Texas 78235

V. PREPARATION OF PROPOSALS

Notice Concerning Solicitation:

Offerors are notified that this is a performance based solicitation. These performance-based specifications express the BDA's requirements as the **minimum quality standard to be met.** The Contractor is considered an industry expert as such, is expected to determine the optimal work schedule, resource

allocations, and performance methods. Therefore, it is strongly advised Respondents review the complete solicitation to ensure awareness of all terms and conditions. Throughout this solicitation, the terms “shall” and “must” are used. “Shall” and “must” denote the imperative. They indicate an obligation to act. In this solicitation, and any resulting contract, “shall” and “must” have the same meaning.

VI. RFQ REQUIREMENTS AND SELECTION PROCESS:

1. GENERAL REQUIREMENTS

A. There are three criteria for this bid. It is important that the proposals contain enough information to allow the evaluation team to address the scoring criteria(s).

- | | |
|---|-----------|
| a. Relevant Experience/Past Performance | 40 points |
| b. Key Personnel | 40 points |
| c. Small Business Economic Advocacy | 20 points |

B. Proposals submitted in response to this RFQ shall include a detailed summary of the information listed below. The information requested must be presented in the order indicated. In the event of a joint venture, please present information for both entities. Where subcontractors will be utilized for a substantial (over 20%) portion of the contract, please provide information regarding the firm. In the event of joint ventures one of the firms must meet all qualifications as outlined: combinations of experience will not be acceptable. Proposal should follow this format and order:

1. Table of contents

2. Executive Summary:

Respondent must provide an executive summary of its RFQ and a representation that the consultant addresses all of the requirements of the RFQ to include the following:

1. Respondent Name: Business name, DBA (if applicable) and principal contact person, including office location, address, telephone number, fax number and e-mail address.
 - i. All other names by which your firm has been known and length of time known by each name; and
 - ii. The address of your firm’s website (if applicable).
2. Provide a narrative addressing why your firm has the expertise to provide the services outlined in the Scope of Work.

Criteria 1 - Relevant Experience/Past Performance

(40 points)

1. Relevant Experience:

- a. Experience with the development of a large, multi-acre Private Manufacturing Project;
- b. Experience with the complete development and delivery of public infrastructure projects; and
- c. Effectively coordinate and manage the development of time sensitive projects.

Provide at least two examples detailing this type of service.

2. Past Performance

- a. Consists of a summary of the firm's organization and the firm's past overall experience as well as experience on similar or related contracts (i.e. Defense Base Authorities, Political subdivisions created by municipalities, and/or Public Sector Entities). Include a list of verifiable references on similar or related contracts, including company or client's name, address, telephone number and contact person.

3. Joints Ventures/Subcontractors

Have you ever performed a project as a joint venture? **A joint venture is defined as a business undertaking by two or more parties in which profits, losses, and control is shared.**

Joint Ventures: Please provide the following information regarding the **legally** established joint venture:

- i. The legal documentation establishing the **Joint Venture**;
 - ii. Experience and Qualifications of the **Joint Venture**;
 - iii. **Joint Venture** Information (i.e. address, phone number, email address, and etc.); and
 - iv. Point of Contact.
4. Have you ever performed a project as a subcontractor; where you were utilized for a substantial (over 20%) portion of the contract? **A subcontractor is defined as an individual or in many cases a business that signs a contract to perform part or all of the obligations of another's contract. Clarify any joint ventures in detail.**

Include two projects that meet these criteria.

Criteria 2 – Key Personnel

(40 points)

- a. Identify key personnel and team hierarchy.
- b. Provide information regarding capabilities and experience of personnel directly assigned to this project that include the followings:
 - a. Clearly identify who will have primary technical responsibility for contract negotiations, training, and any other aspect of the project implementation. **Please do not list individuals that will not be assigned to the project;**
 - b. Professional resumes for key personnel and their responsibilities for the duration of the Contract. Resumes should include a list of previous projects, similar in size and complexity, in which the team member has played a significant role.

Criteria 3 - SBEDA

(20 points)

- a. SBE (Small Business Enterprise)—1 point
- b. AABE (African American Business Enterprise)—1 point
- c. MBE (Minority Business Enterprise)—1 point
- d. LBE (Local Business Enterprise)—10 points
- e. DBE/HUE (Disadvantaged Business Enterprise/ Historically Underused Enterprise) – 5 points
- f. WBE (Woman-Owned Business Enterprise)—1 point
- g. GFE (Good Faith Effort)—1 point

Goals for this contract are as follows:

- a. **MBE (Minority Owned Business) 31%**
- b. **WBE (Women-Owned Business) 10%**
- c. **AABE (African-American Owned Business) 2.2%**
- d. **SBE (Small Business Enterprise) 50%**

2. GENERAL EVALUATION PROCESS CRITERIA

BDA will conduct a comprehensive, fair and impartial evaluation of all submittals received in response to this RFQ. **BDA reserves the right to require a mentor/protégé relationship, award a contract to one or more Respondents, or require Respondents to work together on one contract.** An evaluation team will be established to evaluate the proposals. The team will include employees of BDA and may include other impartial individuals who are not BDA employees. The selection committee may select all, some or none of the Respondents for interviews. If the BDA elects to conduct interviews, Respondents **may be** interviewed and re-scored based upon these same criteria, or other criteria to be determined by the selection committee. BDA may also request additional information from Respondents at any time prior to final approval of a selected respondent. The BDA

reserves the right to select one, more than one, or none of the Respondents to provide services. Final approval of a selected Respondent is subject to the action of the BDA Board of Directors.

4. **NEGOTIATION AND BEST AND FINAL OFFER (AS APPLICABLE)**

- a. Following the submission of Contractor's responses, negotiations may or may not be conducted with a qualified Contractor. After negotiations with any qualified Contractor, BDA may request a Best and Final Offer (BAFO) from each Contractor determined by BDA to be in the competitive range.
- b. Qualified Contractor(s) submitting proposals may or may not be required to submit financial statements for a minimum of 3 recording periods prior to an awarded contract.
- c. Separate meetings with more than one Contractor may be conducted during the same time frame; however, negotiation sessions with a Contractor will not be held in the presence of another Contractor.
- d. Contractors submitting proposals should be cognizant that BDA's Evaluation Panel has sole discretion to determine what proposals constitute the "best value and offer" for BDA. Consequently, Contractors are urged to submit their best possible proposal on their original submittal.

VII. INQUIRIES

1. All inquiries shall be submitted in writing to Sha-Rone V. Caffie-Reyes at facsimile (210) 678-3338 or by email to sharone.reyes@brookscity-base.com with a CC to lucynda.massey@brookscity-base.com.
 - a. **Please do not send questions to any other individual except those listed;**
 - b. A confirmation email will be provided upon receipt of email. If a confirmation is not received within 48 hours please contact the BDA office at 210-678-3300.
2. All inquiries submitted in writing to Sha-Rone V. Caffie-Reyes will result in written responses with copies posted to the BDA website: www.brookscity-base.com.
3. **Upon issuance of the RFQ, beside written inquiries as described above, other employees and representatives of the BDA will not answer questions or otherwise discuss the contents of the RFQ with any potential vendor or their representatives. Failure to observe this restriction may result in the disqualification of any subsequent response. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this proposal.**
4. All inquiries are due by the date and time outlined in the schedule; inquiries received after that date and time shall not receive a response.

VIII. STANDARD TERMS AND CONDITIONS

A. Affirmation

The Respondent affirms that they are duly authorized to execute the proposed contract, that this company, corporation, firm, partnership or individual has not prepared this offer in collusion with any other Respondent, and that the contents of this offer as to prices, terms or conditions of said offer have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the opening of the bid or official award of this contract, as applicable.

B. Standards

The awarded Consultant shall agree that the performance of work and services under this RFQ shall conform to high professional standards.

C. Technical Specifications

All services acquired under this RFQ must meet or exceed the specifications stated in Appendix B - Scope of Work.

D. Record Keeping and Inspection of Records

The awarded Contractor shall maintain, and to the extent appropriate and, where applicable, shall require all subcontractor(s) to maintain, books, records and other compilations of data pertaining to the performance and compliance with the provisions and requirements of this RFQ, to the extent and in such detail as shall properly substantiate claims for payment. Such records shall include among other things, time sheets, payroll calculations and checks, and employee personnel records. BDA, its employees and its agents, including properly authorized independent quality assurance contractors, and BDA officials such as BDA Auditor or its duly authorized representatives, shall have the right, at reasonable times and upon reasonable notice, to examine or audit the work products, books, records, and other compilations of data of the awarded Contractor which pertain to the performance of the provisions and requirements of the Contract. During the course of the Contract, access to these items shall be provided at the awarded Contractor's office at all reasonable times. Such access shall include on-site audits, review and copying of records, and inspection of records at awarded Contractor's offices.

E. Termination for Cause

Without prejudice to any other legal or equitable right or remedy that BDA would otherwise possess hereunder or as a matter of law, BDA upon giving the awarded Contractor five (5) calendar days prior written notice of termination shall be entitled to terminate this Agreement in its entirety at anytime for the following:

1. If the awarded Contractor becomes insolvent, files for bankruptcy protection, or makes a general assignment for the benefit of creditors, or
2. If a receiver, trustee or liquidator, is appointed for any of Contractor's property or income; or

3. If the awarded Contractor shall fail to perform the work, or any part thereof, with diligence necessary to insure its progress and completion as prescribed by the time schedules; or
4. If the awarded Contractor shall fail to remedy any default within thirty (30) calendar days after BDA provides Contractor with a written notice of said default; or
5. If the awarded Contractor shall fail, for any reason, to make payments due under the Contract, if any; or
6. If the awarded Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement BDA has the exclusive right to determine if Contractor is in substantial default under the Contract.

F. Other Termination

This Contract may be terminated in the event that federal, state laws, or BDA resolution or other requirements (including rules, regulations, and other stipulations) should be amended or judicially interpreted so as to render continued performance of this contract, by either party, unreasonable or impossible.

G. No Cost Reimbursement

BDA will not reimburse any Respondent for any costs and expenses associated with the preparation of a proposal submittal or travel expenses of a formal presentation or interview in response to this RFQ.

H. Conflict of Interest Disclosure

Respondent warrants and certifies that it, its individual officers, employees and agents are neither officers nor employees of BDA or any BDA agencies. Respondent further warrants and certifies that it, its individual officers, employees and agents do not have a prohibited financial interest as proscribed by the Ethics Code of the State of Texas. An officer or employee has a "prohibited financial interest" in a Contract with BDA or in the sale to BDA of materials, supplies, or service, if any of the following individuals or entities is a party to the sale: BDA officer or employee; his or her parent, child, or spouse.

I. Independent Contractor

It is expressly understood and agreed that the Respondent, if selected, and all persons designated by it to provide services in connection with this engagement is and shall be deemed to be an independent contractor, responsible for its respective acts or omissions, and that BDA shall in no way be responsible therefore and that neither party hereto has authority to bind the other or to hold out to third parties that it has the authority to bind the other.

J. Incomplete Response

Failure to submit completed forms and information as required by this RFQ may result in the Respondent's proposal being deemed non-responsive.

K. Ownership of Records

All Proposals and any related documents received in response to this RFQ shall become the property of BDA without any restriction on usage and are non-returnable. Respondent may maintain a copy of any such material for their records. BDA shall own the entire copyright of whatever nature or extent and in all media whatsoever to any documents (records) produced through the expenditure of public funds as provided by Section 201.005, Texas Local Government Code.

L. Texas Public Information Act

Respondent acknowledges that all information submitted to BDA in response to this RFQ is subject to the Texas Public Information Act. All responses become property of BDA upon receipt and will not be returned. Any information deemed to be confidential by the Respondents should be clearly noted on the page or pages where such confidential information is contained; however, BDA cannot guarantee that it will not be compelled to disclose all or part of said information as part of a public record under the Act, since information deemed to be confidential by the Respondent may not be considered confidential under Texas law.

M. BDA Reservation of Rights

BDA reserves the right to reject any or all Proposals and reserves the right to issue a subsequent RFQ or cancel the entire RFQ process. BDA reserves the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such clarification is deemed desirable by BDA. BDA reserves the right to evaluate the responses submitted, to waive any informalities and irregularities therein, to select candidates for interview, or to reject any or all submittals should it be deemed in BDA's best interest. BDA reserves the right to negotiate with any, all or none of the Respondents.

N. No Contract or Agreement

The purpose of this RFQ is to provide BDA with information pertinent to the firm. This information will be utilized by BDA to determine if a firm is eligible to conduct business with BDA. Nothing in this RFQ, whether explicitly or implicitly presented, should be construed by any firm as the basis for a contractual arrangement. Submission of a Proposal does not commit BDA to investigate or invite further written or oral presentations from perspective firms nor does it commit BDA to award a contract to any Respondent. Final award and approval of a contract, if any, is subject to BDA board approval.

O. Contract Continuity/Transitional Period

In the event the services are scheduled to end either by contract expiration or by termination by BDA (at BDA's discretion), it shall be incumbent upon the contractor to continue the service, if requested by BDA, until new services can be completely operational. At no time shall this transitional period extend more than one hundred and eighty (180) days beyond the expiration date of the existing contract. The Contractor will be reimbursed for this service at the rate in effect when this transitional period clause is invoked by BDA.

IX. SPECIAL TERMS AND CONDITIONS

1. Contract Term

- a. The Contract resulting from this RFQ shall be for an initial term of one (1) year thereafter subject to termination provisions as will be set forth in a Contract. BDA reserves the right to extend the contract period for three (3) successive one (1) year periods should such an extension be mutually agreeable to BDA and the Contractor.
- b. BDA reserves the right to extend the term of the contract in 30 day increments not to exceed 90 days, provided, the BDA shall give the Contractor a preliminary written notice of its intent to extend at least ten (10) days before the contract expires. The preliminary notice does not commit BDA to an extension.
- c. All representatives made in the proposal will be incorporated into any contract that may be awarded as a result of this bid.
- d. Payments are net 30 days.

2. Contract Labor

The awarded Contractor shall furnish all labor to successfully perform all the requirements as specified under this RFQ.

3. Other Awarded Contractor Requirements (as applicable)

The awarded Contractor shall agree to the terms and conditions for the additional items as follows:

a. Prevailing Wage

Comply with the BDA's Procurement Policy concerning Wage and Hour Labor Standard Provision.

- 1. Prevailing Wage Rate and General Labor Conditions: The Provisions of Chapter 2258, Texas Government Code, are expressly made a part of this contract. The Contractor shall forfeit as a penalty to the BDA sixty dollars (\$60.00) for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by the contractor or any sub-contractor under him. The establishment of prevailing wage rates pursuant to Chapter 2258, Texas Government Code shall not be construed to relieve the Contractor from his obligation under any Federal or State Law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the work to be performed hereunder. The Contractor, in the execution of this Project, agrees that he

shall not discriminate in his employment practices against any person because of race, color, creed, sex or origin. The Contractor agrees that he/she will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age, handicap or political belief or affiliation.

2. Comply with the overtime regulations and pay workers the prevailing wage rate as listed in the wage decision. Wage rates can be located by visiting the following website <http://www.wdol.gov/dba.aspx#0>.
3. The awarded Contractor shall be responsible for securing adequate and appropriate protection of BDA assets;

b. Debarment

1. Respondent certifies that it does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained;
2. Certifies (in accordance with the Guidelines below) that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency OR where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participation shall attach an explanation to this offer.

GUIDELINES FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

By signing and submitting this offer, the prospective lower tier participant is providing the certification set out below.

- a. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue

available remedies, including suspension and/or debarment.

- b. The prospective lower tier participant shall provide immediate written notice to the person to whom this offer is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
- c. The terms covered transactions, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which the proposal is submitted for assistance in obtaining a copy of those regulations.
- d. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency which this transaction originated.
- e. The prospective lower tier participant further agrees by submitting this offer that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- f. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may

decide the method and frequency by which it determines the eligibility of its principles. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-Procurement Programs.

- g. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - h. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR par 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including and/or debarment.
- c. Safe working area; and
 - d. The awarded Contractor is responsible for maintaining a safe work area and securing all tools and materials at the end of each work day. BDA shall not be responsible for or liable to replace any missing items that belong to the awarded Contractor or subcontractor(s).

**APPENDIX A
CONTRACTOR'S VENDOR PROFILE**

- 1. Respondent Information:** Provide the following information regarding the Respondent. (NOTE: Co-Respondents are two or more entities proposing as a team or a legally established joint venture with each signing the contract, if awarded. A joint venture is defined as a business undertaking by two or more parties in which profits, losses, and control are shared. Sub-contractors are not Co-Respondents and should not be identified here. If this proposal is a joint venture, provide the required legal formation documentation).

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

Principal Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

E-mail address: _____

List here, any other names under which Respondent has operated within the last 10 years. (add space as needed)

- 1.2 Business Structure:** Check the box that indicates the business structure of the Respondent. **(Please include W9)**

Individual or Sole Proprietorship If checked, list Assumed Name, if any:

Partnership _____

Corporation If checked, check one: For-Profit Nonprofit

Also, check one: Domestic Foreign

Other If checked, list business structure: _____

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

Yes No

- 1.4** Is Respondent authorized and/or licensed to do business in Texas?

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

1.5 Where is the Respondent's corporate headquarters located? To receive SBEDA credit for a local office, the respondent must be a corporation, partnership, sole proprietorship, or other legal entity, which is headquartered within Bexar County for at least one year (i.e. Alamo Heights, Balcones Heights, Leon Valley, Lincoln Heights, Olmos Park, etc.)? Please identify the City. _____.

i. Address (please provide a Google map image): _____

ii. How Long has the Respondent conducted business from the headquarters? _____

iii. State the number of full time employees at the corporate headquarters.

1.6 **Branch Office:** Does the Respondent have a physical branch office located within Bexar County (Trailers on construction sites do not count)?

Yes No If "Yes", respond to **a., b., c., and d.** below:

a. Address (please provide a Google map image): _____

b. Is this a Post Office (P.O.) Box?

Yes No

c. How long has the Respondent conducted business from its San Antonio office?

Years _____ Months _____

d. State the number of full-time employees at the San Antonio office (to receive SBEDA credit for a branch office, it must be located in Bexar County for at least one year and must employ a minimum of 10 residents of Bexar County for use at the local branch office). _____

1.8 **Organizational Chart:** Attach a one page copy of your business organizational chart for the portion of your business that will be involved with this project, complete with names and titles, identify as Attachment 1.8.

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

Yes No

If “Yes”, identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

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

Yes No

If “Yes”, state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

1.11 **LITIGATION DISCLOSURE - Failure to fully and truthfully disclose the information required by this Litigation Disclosure may result in the disqualification of your bid/proposal from consideration or termination of the contract, once awarded.**

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

Yes No

B. Have you or any member of your Firm or Team been terminated (for cause or otherwise) from any work being performed for the BDA, the City of San Antonio or any other Federal, State or Local Government, or Private Entity?

Yes No

C. Have you or any member of your Firm or Team been involved in any claim or litigation with the BDA, the City of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Yes No

D. Are you currently or in the last five years have you had any litigation with BDA or the City of San Antonio (except to the extent prohibited by law, persons who are engaged in litigation related to Tax Increment Financing (TIF) or Tax Increment Financing Zone (TIRZ) or adversarial proceedings related to TIF or TIRZ against the BDA or the City are ineligible to obtain or continue the use of TIF as principals or participants for the duration of the litigation. A principal or participant includes the TIF applicant, BDA, BDA’s contractors, affiliates, sponsors, payroll employees, or relatives of the first degree of consanguinity. Accordingly, the BDA shall not consider a project proposing the use of TIF,

designate a TIRZ, enter into any TIF contracts or agreements with, or authorize or make any TIF payments to persons engaged in litigation related to TIF or TIRZ or adversarial proceedings related to TIF or TIRZ with the BDA or the City. Ineligible persons shall be excluded from participating as either participants or principals in all TIF projects during the term of their litigation. "Person" includes an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, partnership, association, and any other legal entity). (See Appendix H)

Yes

No

If you have answered "Yes" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page and submitted with your bid/proposal as Attachment 1.11.

2. EXPERIENCE

2.1 Complete **RELEVANT EXPERIENCE LIST** (You may add lines to this form and provide explanations, as necessary)

RELEVANT EXPERIENCE LIST

Name of Respondent: _____

Date of Project	Name of Project	Type of Contract	Project Type *	Original Contract Amount (in dollars)	Final Contract Amount (in dollars)	Number Change Orders/ Amendments	Location of Project (City/State)	Owner Name	Owner Contact Name	Owner Contact Phone #

2.2 POINT OF CONTACT:

2.2.1 Name of the proposed Point of Contact: _____

2.2.2 Number of years of experience (including previous employment):

2.2.3 Number of years employed with this organization _____

2.3 LETTERS OF REFERENCE may be included as attachment 2.8. Letters of reference should be relevant to this project. Letters of reference are optional.

2.4 Business Type:

NAICS Description: _____

NAICS Number: _____

(Please go to www.naics.com/search to determine NAICS for your organization).

2.5 IMPORTANT!! PLEASE ATTACH COPIES OF ALL CERTIFICATIONS:

a. Are you certified by the **South Central Texas Regional Certification Agency (SCTRCA)** as a Small Business Enterprise (SBE)? YES ___ NO ___

b. Are you certified by SCTRCA as a Minority Business Enterprise (MBE)? YES ___ NO ___ If yes, Certification No. _____

_____ African American

_____ American Indian or Alaskan Native

_____ Asian or Pacific Islander

_____ Hispanic

_____ Two or More Different Minorities

c. Are you certified by SCTRCA as a Women-Owned Business Enterprise (WBE)? YES ___ NO ___ If yes, Certification No. _____

d. Are you certified by SCTRCA as a Disadvantaged Business Enterprise (DBE)? YES ___ NO ___ If yes, Certification No. _____

If not certified, will your business seek certification?

YES ___ NO ___

Contractors can obtain certification from the entities below:

SOUTH CENTRAL TEXAS REGIONAL CERTIFICATION AGENCY (SCTRCA)

3201 Cherry Ridge, Ste. C-319, San Antonio, Texas 78230 Office: 210-227-4722,

Fax: 210-227-5712, Website: www.sctrca.org

Contractor Signature & Title

Date

APPENDIX B
Scope of Work

Brooks Development Authority (BDA) is soliciting Request for Qualifications Statements (RFQ's) from a qualified firm/individual to provide Project/Construction Management (PM) Services to support and coordinate all activities associated with a large, multi-acre Private Manufacturing Project (PMP) to include but not be limited to:

1. The development of the PMP to be located at Brooks City-Base; and
2. Manage on behalf of Brooks Development Authority (BDA) the complete development and delivery of the required public infrastructure project(s) determined as necessary to support the Private Manufacturing Project.

The selected PM will be responsible on behalf of BDA for coordination of all project development elements between the PMP and the required BDA public infrastructure projects. The PM will act on behalf of BDA as the liaison with the PMP to understand their site development activity and constructability support in terms of access to the plant site. This project liaison activity will provide the critical information necessary to ensure the timely coordination, development, and delivery of all the necessary public infrastructure projects required to support the development and operations of the PMP.

It is anticipated that the successful respondent will possess and exhibit the proven PM knowledge, experience, and ability to:

1. Effectively coordinate and manage the development of the time sensitive project(s) based on previous similar projects delivery,
2. As required, support BDA in the development of the necessary Development Agreements for the delivery of the projects,
3. Ensure the development and delivery of the project within the guideline of an approved Development Agreement,
4. Identify the critical development elements and identify strategies, and recommendations to successfully address and ensure project delivery,
5. Identify the necessary project delivery elements support (coordination, approvals, utility service, etc.) required by other regulatory and / or utility agencies, and develop realistic recommendations and action plans to achieve a successful end result on behalf of the project(s),
6. As required, develop recommended project activities associated with procurement strategies for public infrastructure projects to include different funding sources (BDA funds, City funds, Bond funds, TIRZ funds, etc.), and applicable procurement requirements for public project(s),
7. Utilize public infrastructure project process experience, and knowledge of regulatory and/or utility agency process to the benefit of timely project development & delivery.

SCOPE OF WORK

OVERALL FUNCTIONS FOR THE PROJECT

The following is a list of anticipated PM services and functions that, at a minimum, will be required of the successful respondent:

1. Respondent shall provide the principal PM and single point of contact for the owner. Services include all general leadership and management functions required of a PM which include, but are not limited to: tracking budgets; monitoring schedules; overseeing quality of all aspects of the projects; building and communicating with the project team; coordinating all project issues, documentation, minutes, action items, and approvals to move the project through all its various phases; providing direct interface with the community, end-users and other stakeholders; identifying project issues and developing recommendations for corrective actions, and briefing executives as necessary;
2. Review all existing Owner project data and identify additional recommended engineering and environmental project support for project development;
3. Provide overall project management of each consultant and work task;
- 4.
5. Evaluate engineering and environmental studies and apply results to the balance of the planning process;
6. Assist owner in coordinating critical project issues with local governing agencies and authorities having jurisdiction;
7. Coordinate with the Owner's to insure all procedures are in compliance with statutes and regulations;
8. As required, work with Owner to procure support to the project specialty consultants such as surveyor, geotechnical engineer, environmental material & abatement firms, materials testing firms, independent design consultants, etc.;
9. Project Constructability reviews;
10. Cost Control methods;
11. Obtain and review initial budget estimate for project;
12. Review/establish overall project budget including hard and soft costs. (i.e., construction, design, management, testing, permitting, connection fees, contingency funds, etc.);
13. Review and track Master Schedule for project;

14. Determine critical project activities and develop recommendations for strategies to address timely ;
15. Develop communication protocols for the projects;
16. Keep Owner Executives, Officials, and Community Representatives informed and communicate to keep scope aligned with project objectives. Present to Building Committee, as required;
17. Establish, lead, and coordinate all project related meetings;
18. Coordinate with all external approval authorities and neighboring institutions;
19. Provide necessary liaison and required project coordination with regulatory agencies, as required;
20. Identify the need for special studies, surveys, investigations, etc. and provide recommended actions to implement contracts as necessary;
21. Develop a filing and document control system for the project for hardcopy and electronic records;
22. Develop and maintain a Master Budget tracking system to include individual contract and project activity, as well as the overall project effort;
23. Manage and coordinate all contracts (Design, Construction, Special Consultants, etc.) related to the project;
24. Project cash-flows, monitor, and manage all payments to consultants and contractors;
25. Collect & process all required documents from contracted firms before proceeding with work. (i.e. bond, insurance, etc.);
26. Issue notices to proceed on appropriate phases have been completed;
27. Carry out necessary contractual actions and transactions during the various contract phases;
28. Review standard construction contract for billing, procurement, timelines, change orders, applications for payment and all processes required.

Construction Phase (As required)

1. Develop procurement strategies for construction activity by developing recommended framework for timely delivery incorporating public capital improvement project concepts to include public funding and other required public process language and requirements.

2. After selection of contractor by Owner, assist Project Engineer with transmitting standard procurement requirements to contractors and subcontractors.
3. Review information submitted by Contractor to include insurance, employee pay scales, material suppliers, subcontractors list, bonds, and financing
4. Serve as the Owner's Point of Contact during construction. Conduct construction update meetings at construction sites on a weekly or as-needed basis to ensure adequate communication for the timely delivery of the project within the approved Development Agreement requirements.
5. Review required documents/outlines from Contractor including Quality Control Plan.
6. Change Order documentation reviews & control management.
7. Pay Application documentation reviews.
8. Submittal documentation reviews.
9. Construction Schedule reviews.
10. Construction Contract documentation review.
11. On-Site Construction review.
12. Review of Project Construction with the Construction documents.
13. Evaluate requests for proposed Change Orders and Construction Change Proposals and make written recommendations.
14. Manage and coordinate the support of other construction activity to include utility agencies required to complete the projects successful delivery.
15. Manage the required project closeout activity on behalf of the Owner to ensure the appropriate level of project documentation required to have the project scope area accepted by the appropriate local governmental agency as public improvements.
16. Administer Construction Contract and General Conditions and serve as Owner's representative.
17. Provide oversight of contract administration by architects or engineers.
18. Review compliance with all plans, specifications and required terms and conditions and report status to Owner.
19. Assist Owner in contracting with Independent Testing Firms and review testing program results (Tests typically include: geotechnical, etc.).

20. Provide Field and Quality Assurance Oversight
21. Provide on-sight construction observation services.
22. Review approved submittals. Obtain Owner approvals as required.
23. Managing the overall information flow during construction including submittals, RFI's, daily reports, photos, & meeting minutes.
24. Continue the Change Management System into construction phase. Analyze each potential change, estimate cost and schedule, assess its impact, and negotiate the change amount. Execute necessary contract modification documents.
25. Monitor Requests for Information (RFI's) and Designer responsiveness.
26. Evaluate payment applications and make recommendation to owner on approval of requests for progress payments.
27. Perform final inspections and review punch list work.
28. Manage the required project closeout activity on behalf of the Owner to ensure the appropriate level of project documentation required to have the project scope area accepted by the appropriate local governmental agency as public improvements.

APPENDIX C
Confidentiality Statement/Non-Disclosure

Contractor Confidentially Statement

In consideration of the Brooks Development Authority retaining the services of _____ (Awarded Contractor) by contract executed by both parties as of (the "Contract"), and because of the sensitivity of certain information which may come under the care and control of the awarded Contractor, the awarded Contractor agrees that all information obtained, gathered, produced, or derived from or in connection with the Contract (Confidential Information) shall remain confidential and shall be released or divulged by the awarded Contractor only with advance, specific, written permission of the Brooks Development Authority. More specifically, the awarded Contractor agrees as follows:

- i. The Confidential Information may be used only to assist the awarded Contractor in the performance of its duties and responsibilities under the Contract. The awarded Contractor will not, at any time, use the Confidential Information in any fashion, form, or manner except in furtherance of the duties of the awarded Contractor in its capacity as an independent contractor to the BDA under the Contract.
- ii. The awarded Contractor agrees to maintain the confidentiality of the Confidential Information in the same manner that the confidentiality of the awarded Contractor's proprietary services of like kind is protected.
- iii. The Confidential Information may not be copied or reproduced without the BDA's advance written consent.
- iv. All Confidential Information made available to the awarded Contractor in written form, including copies thereof, shall be returned to the BDA upon the first to occur of (1) completion of the project or (2) request by the BDA.
- v. The foregoing shall not prohibit or limit the awarded Contractor's use of the information (including, but not limited to, data, ideas, concepts, know-how, techniques, and methodologies) (1) previously known to it, (2) independently developed by it, (3) acquired by it from a third party, or (4) which is or becomes part of the public domain through no breach of this agreement by the awarded Contractor.
- vi. This agreement shall become effective as of the date Confidential Information is first made available to the awarded Contractor and shall survive the Contract and be a continuing requirement. This agreement is incorporated into and made a part of the Contract for all purposes.

The breach of this Nondisclosure Agreement by the awarded Contractor shall entitle BDA to immediately terminate the Contract upon written notice to the awarded Contractor of such breach and to such other remedies available to the BDA in law and/or equity.

Acknowledged:

Awarded Contractor: _____

By: _____

Name and Title: _____

Date: _____

APPENDIX D

INSURANCE AND BOND REQUIREMENTS

BDA will require that the Insurance requirements contained in this Article be included in all its contracts or agreements for Public Improvements where Contractor is seeking payment under this Agreement, unless specifically exempted in writing by the BDA.

1. Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and the original completed Certificate(s) of Insurance to the BDA. The original certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The BDA will not accept a Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the BDA at the address listed in paragraph five (5).

2. The BDA shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the BDA. No officer or employee, other than the BDA's Contracts Manager, shall have authority to waive this requirement.

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

4. Contractor's financial integrity is of interest to the BDA, therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the Contractor or Contractor's Subcontractors, shall obtain and maintain in full force and effect during the construction of all Public Improvements required by the Final Project Plan and Final Financing Plan, and any extension hereof, at Contractor's or Contractor's Subcontractor's sole expense, insurance coverage written on an occurrence basis, **by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:**

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors* c. Products/completed operations d. Personal Injury e. Contractual Liability	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence
5. Professional Liability (Claims Made Form)	\$1,000,000 per claim to pay on behalf of the insured all sums, which the insured shall become legally obligated to pay as damages to the extent caused by any negligent act, error or omission in the performance of professional services.
6. Contract's Pollution Liability*	\$1,000,000 per occurrence
7. Builders Risk*	100% value of each phase of project
*if applicable	

To ensure that contractors insurance meets the AM Best rating of no less than A- please go to the AM Best website (www.ambest.com) or contact them at 908-439-2200. For Workers' Compensation only, Brooks City-Base will accept insurance written through a State Fund (documentation must be provided).

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

Brooks Development Authority
Attn: Purchasing and Contracts Manager
3201 Sidney Brooks
San Antonio, Texas 78235

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

- a. Name the BDA and their respective officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under this Agreement, with the exception of the workers' compensation and professional liability policies;
- b. Provide for an endorsement that the "other insurance" clause shall not apply to the Brooks Development Authority where the BDA is an additional insured shown on the policy;
- c. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the BDA; and

d. Provide thirty (30) calendar days advance written notice directly to the BDA at the same address listed in paragraph 5 of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

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

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

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

10. It is agreed that Contractor's and/or Contractor's Subcontractor's insurance shall be deemed primary with respect to any insurance or self insurance carried by the Brooks Development Authority for liability arising out of operations under this Agreement.

11. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

12. Contractor agrees to obtain all insurance coverages with minimum limits of not less than those limits delineated in paragraph 4 from each subcontractor to Contractor and provide a Certificate of Insurance and Endorsement that names BDA as an additional insured.

WORKERS COMPENSATION INSURANCE COVERAGE

1. Definitions:

- a. Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on the Project for the duration of the project.

- b. Duration of the project - includes the time from the beginning of the work on the Phase of the Project until the contractor's/person's work on the project has been completed and accepted by the BDA.
- c. Persons providing services on the Project ("subcontractor" in §406.096 of the Texas Labor Code) - includes all persons or entities performing all or part of the services Contractor has undertaken to perform on the Project, regardless of whether that person contracted directly with Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to the Project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

2. Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all its employees providing services on the Project, for the duration of the project.

3. Contractor must provide a certificate of coverage to the BDA prior to being beginning construction under this Agreement and prior to awarding any contract for construction of Public Improvements.

4. If the coverage period shown on Contractor's current certificate of coverage ends during the duration of the project, Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the BDA showing that coverage has been extended.

5. Contractor shall obtain from each person providing services on the Project, and shall provide to the BDA:

- a. a certificate of coverage, prior to that person beginning work on the Project, so the BDA will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
- b. no later than seven days after receipt by Contractor or Contractor's Subcontractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of project.

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

7. Contractor shall notify the BDA in writing by certified mail or personal delivery, within 10 days after Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

8. Contractor shall post on the Zone Property a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

9. Contractor shall contractually require each person with whom it contracts to provide services on the Project, to:

- a. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the Project, for the duration of the project;
- b. provide to Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project, for the duration of the project;
- c. provide Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- d. obtain from each other person with whom it contracts, and provide to Contractor:
 - (1) a certificate of coverage, prior to the other person beginning work on the Project; and
 - (2) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- e. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- f. notify the BDA in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- g. contractually require each person with whom it contracts with, to perform as required by subparagraphs a-g, the certificates of coverage to be provided to the person for whom they are providing services.

10. By signing this Agreement or providing or causing to be provided a certificate of coverage, Contractor is representing to the BDA that all employees of Contractor who will provide services on the Project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the

commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

11. Contractor's failure to comply with any of these provisions is a breach of contract by Contractor which entitles the BDA to declare the Agreement void if Contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the BDA without necessity of the ninety (90) day cure period as set forth in Article X.

BONDS (IF BID IS OVER \$99,999) – NOT APPLICABLE TO THIS PROJECT

CONTRACTOR shall furnish, in a form acceptable to the BDA, a Performance and Payment Bond for the Project. Specifically, CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price excluding any amounts associated with any contractor-provided Design Professional Services, as security for the faithful performance and payment of all CONTRACTOR'S obligations to furnish, provide and pay for Construction and related materials under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in U.S. Treasury Circular 570 (as periodically amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

PERFORMANCE BOND (NOT APPLICABLE TO THIS PROJECT):

The contractor will provide a performance bond within 5 days of BDA contract award. The performance bond will be equivalent to 100% of the contract price. A performance bond is executed in connection with the contract to ensure fulfillment of all the contractor's obligations under such contract. Pursuant to state law, no performance bond will be required if the contract value is less than \$100,000. Alternative BDA performance security for contracts valued at less than \$100,000 includes retainage and partial payment upon phased completion formats.

PAYMENT BOND (NOT APPLICABLE TO THIS PROJECT):

The contractor will provide a payment bond within 5 days of BDA contract award. The payment bond will be equivalent to 100% of the contract price. A payment bond is executed in connection with the contract to assure payment by contractor as required by statute of all persons supplying labor, equipment and material in the execution of the work provided for in the contract. Pursuant to state law, no payment bond will be required if the contract value is less than \$25,000.

CERTIFIED SURETIES (NOT APPLICABLE TO THIS PROJECT):

If federal funding is involved, all bonds will be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, Surety Companies Doing Business with the United States.: If only local or state funding is involved, the sureties must be authorized and admitted to write surety bonds in Texas. If the amount of the bond on a state or locally funded project exceeds \$100,000, pursuant to the Texas Insurance Code Article 7.19-1©, the surety must also: (1) hold a certificate of authority from the United States secretary of the treasury to qualify as a surety on obligations permitted or required under federal law; or (2) have obtained reinsurance for any liability in excess of \$100,000 from a reinsurer that is authorized and admitted as a reinsurer in this state and is the holder of a certificate of authority from the United States secretary of the treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this section, CONTRACTOR shall within thirty days thereafter substitute another Bond and surety meeting the requirements set forth in this Article.

All Bonds and insurance required by the Contract Documents to be purchased and maintained by CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue Bonds or insurance policies for the limits and coverages so required. All surety and insurance companies shall carry a minimum A.M. Best's rating of A VII.

Contractor acknowledges receipt of the insurance and bonds requirements, and understands it will be incorporated into any contract awarded.

Contractor Signature & Title

Date

APPENDIX E
BROOKS DEVELOPMENT AUTHORITY

PROPOSAL AFFIDAVIT

AUTHORIZED OFFICER: Proposal containing statements, letters, etc., shall be signed by a duly authorized officer of the company, whose signature is binding on the proposal.

The undersigned offers and agrees to furnish all of the equipment/services upon which prices are stated in the accompanying proposal. The period of acceptance of this proposal will be one hundred and twenty days from the date of the proposal opening.

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, a Notary Public, in and for the State of Texas on this day _____ personally appeared who, after being by me duly sworn, did depose and say:

“I, _____, am a duly authorized officer of/agent for _____, and have been duly authorized to execute the foregoing on behalf of the said

_____.”
{NAME OF FIRM}_____

I hereby certify that the foregoing proposal has not been prepared in collusion with any other Proposer or other person or persons engaged the same line of business prior to the official opening of this proposal. Further, I certify that the Proposer is not now, nor has ever been, for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination, to control the price of services/commodities offered, or to influence any person or persons to offer or not to offer thereon.

NAME AND ADDRESS OF THE PROPOSER:

TELEPHONE NUMBER

BY: _____ TITLE: _____

SUBSCRIBED AND SWORN to before me by the above named _____ on the ____ day of _____, 2013.

Notary Public in and for the State of _____.

APPENDIX F
SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY POLICY
REQUIREMENTS
HISTORICAL GOOD FAITH EFFORT PLAN
SBEDA FORM 117C
SUBCONTRACTORS LIST

Small Business Economic Development Advocacy (SBEDA) Police Requirements

It is the policy of the Brooks Development Authority to involve qualified small business and local business enterprises to the greatest extent feasible in BDA's professional service and other discretionary contracts. Pursuant to Brooks Development Authority, Board Resolution #021704-124, the Brooks Development Authority, its employees, contractors and subcontractors shall not discriminate on the basis of race, color, religion, national origin, sex, age or disability in the award and performance of contracts.

BDA has established the following overall contracting goals:

- | | |
|---|-------|
| <input type="checkbox"/> Minority-Owned Business Enterprise (MBE): | 31.0% |
| <input type="checkbox"/> Women-Owned Business Enterprise (WBE): | 10.0% |
| <input type="checkbox"/> African-American-Owned Business Enterprise (AABE): | 2.2% |
| <input type="checkbox"/> Small Business Enterprise (SBE): | 50.0% |

Please note that a business could be classified in each category and therefore their utilization could be counted in each category of goals. For example, Company X submits proposal as a prime contractor for \$250,000 of services of which \$77,500 is subcontracted to Company Z. Company X retains \$172,500 of the contract. Company X is classified as local SBE, and Company Z is certified as an AABE, WBE, MBE and SBE. Goal compliance will be evaluated as follows:

Contract Amount: \$250,000

MBE	=	\$ 77,500	or	31.0%
WBE	=	\$ 77,500	or	31.0%
AABE	=	\$ 77,500	or	31.0%
SBE	=	\$ 250,000	or	100%

Company Z's \$77,500 subcontract counts towards MBE/WBE/AABE and SBE goals. Company X's \$172,500 balance counts towards the SBE goal. MBE's and WBE's submitting proposals as a prime contractor may count their status as such towards the appropriate goal. However, compliance with other goals (i.e., AABE, SBE, etc.) is required.

Proposals shall include a Good Faith Effort Plan (GFEP). The GFEP shall include specific documentation, as outlined in **SBEDA Form 117C, "Good Faith Effort Plan for Subcontractors and Professional Services" (Attached)**, that demonstrates a commitment by the proposer, to utilize minority and women business enterprises in a percentage which equals or exceeds the above goals. **Any proposals that does not include a completed GFEP shall be declared non-responsive.**

A firm may count toward the above goals a portion of the total dollar value of a contract with a joint venture equal to the percentage of MBE, WBE, AABE, or SBE participation in the joint venture. The MBE, WBE or AABE must be responsible for a clearly defined portion of the work to be performed, equal to a share in the ownership, control, management, responsibility, risks and profits of the joint venture.

Only companies certified as MBE, WBE, or DEB by the South Central Texas Regional Certification Agency (SCTRCA) can be applied towards the contracting goals. If not certified, please call the SCTRCA at (210) 227-4722. Proof of certification must be submitted utilizing, in part or in whole, a MBE or WBE firm.

LOCAL AND DISADVANTAGED BUSINESS ENTERPRISE PERFORMANCE

Contractors will be evaluated based on the level of Local and Disadvantaged Business Enterprise (DBE) Performance. Credit will be given to submittals as follows:

A. Classification of the team or primary submitter as a local business.

For Locally Headquartered Businesses:

Ten percentage (10%) points if the business is headquartered in the corporate limits of the City of San Antonio or the San Antonio ETJ for more than one year.

Or

Four percentage (4%) points if the business is headquartered in Bexar County for more than one year.

For Local Branch Offices:

Six percentage (6%) points for a branch office of a non-headquartered business located within the corporate lines of the City of San Antonio or the San Antonio ETJ for more than one year.

Or

Two percentage (2%) points if the branch office is located in Bexar County for more than one year.

In the cases of joint ventures or subcontractor relationships between local and out-of-town firms, the submittal will be given credit based on the percentage of local participation.

B. Designation of the team or primary submitter as a DBE.

Five percentage (5%) points for disadvantaged business enterprises.

A business meeting the definition of a DBE shall receive 5 percentage points. In order to receive this designation, a company must be certified by the SCTRCA.

In the cases of joint ventures or subcontractor relationships between DBE and non-DBE firms, the submittal will be give credit based on the percentage of DBE participation.

Small Business Economic Development Advocacy policy compliance.

Five percentage (5%) points for compliance with the Small Business Economic Development Advocacy policy.

**HISTORICAL GOOD FAITH EFFORT PLAN
SBEDA FORM 117C
(For projects estimated to exceed \$200,000)**

NAME OF COMPANY: _____

PROJECT NAME: _____

1. Identify all solicited contractor areas, actual or anticipated. (Use additional sheets as needed). If M/WBE contracting goal was met, skip to #9.

COMPANY NAME & TRADE AREA	EST. PERCENTAGE/ DOLLAR AMOUNT	DBE (Y/N)	SCTRCA M/WBE CERTIFICATION NUMBER

2. If M/WBE contracting goal was not achieved in a percentage that equals or exceeds the BDA's M/WBE goal, please give explanation.

3. List all M/WBE Listing or Directories utilized to solicit participation.

4. List all contractor associations and other business associations solicited for M/WBE referrals.

5. Discuss all efforts aimed at utilizing M/WBEs.

6. Indicate advertisement mediums used for soliciting bids from M/WBEs.

7. List all M/WBE bids received but rejected. (Use additional sheets as needed.)

COMPANY NAME	CITY M/WBE CERTIFICATION NUMBER	DBE (Y/N)	REASON FOR REJECTION

8. Please attach a copy of company's M/WBE policy.

9. Name and phone number of person appointed to coordinate and administer the Good Faith Efforts of your company on this project.

10. This Good Faith Effort Plan is subject to the Brooks Development Authority's approval.

SIGNATURE OF AUTHORIZED OFFICIAL

TITLE OF OFFICIAL

DATE

PHONE

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

NAME AND TITLE OF AUTHORIZED OFFICIAL: _____

SBEDA Form 101, Rev. 01/28/00

FOR BDA USE

Plan Reviewed By: _____

Recommendation: Approval _____ Denial _____

Action Taken: Approved _____ Denied _____

Purchasing and Contracts Manager

APPENDIX G
Ethics Disclosure

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the BDA in the enforcement of provisions contained in the BDA's Charter and the code of ethics, an individual or business entity seeking a discretionary contract from the BDA is required to disclose in connection with a proposal for a discretionary contract:

(1) The identity of any individual who would be a party to the discretionary contract;

(2)
the
iden

tity of any business entity that would be a party to the discretionary contract:

_____ and in the name of

(A) any individual or business entity that would be a subcontractor on the discretionary contract;

(B) any individual or business entity that is known to be a partner, or a parent or subsidiary business entity, of any individual or business entity who would be a party to the discretionary contract;

(3) the identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract;

Political Contributions

Any individual or business entity seeking a discretionary contract from BDA must disclose in connection with a proposal for a discretionary contract all political contributions totaling on hundred dollars (\$100) or more within the past twenty -four (24) months made directly or indirectly to any member of **BDA, San Antonio City Council or to any political action committee that contributes to BDA or City Council elections**, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to contributions made by the individual's spouse, whether statutory or common-law.

To Whom Made: _____ **Amount:** _____ **Date of Contribution:** _____

Disclosure in Proposals

Any individual or business entity seeking a discretionary contract with the BDA shall disclose any known facts which, reasonable understood, raise a question as to whether any city official would violate Section 1 of Part B by participating in official action relating to the discretionary contract.

Signature:

Title:

Date:

CONFLICT OF INTEREST

CONFLICT OF INTEREST QUESTIONNAIRE FORM CIQ
For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

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

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

1. Name of person doing business with local governmental entity.

2.

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

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3. Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.

4. Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.

CONFLICT OF INTEREST QUESTIONNAIRE **FORM CIQ**
For vendor or other person doing business with local governmental entity

5. Name of local government officer with whom filer has affiliation or business relationship.
(Complete this section only if the answer to A, B, or C is YES)

This section, item 5 including subparts A, B, C, & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

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

Yes No

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

Yes No

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

Yes No

D. Describe each affiliation or business relationship.

6. Describe any other affiliation or business relationship that might cause a conflict of interest.

Signature of person doing business with
the governmental entity.

Date

APPENDIX H INDEMNIFICATION

BDA and the Bexar County acknowledges that it is a political subdivision of the State of Texas and is subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Texas Civil Practice and Remedies Code, § 101.001 et seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

No Joint Enterprise. There is no intention on the part of BDA, the City or the Contractor to create or otherwise form a joint enterprise under or pursuant to this Agreement. BDA is engaging in economic development of base property and areas around the base property pursuant to Local Government Code Chapter 379B.

Contractor covenants and agrees to have each of itself and it's subcontractors FULLY INDEMNIFY and HOLD HARMLESS, the BDA, Bexar County (and the elected officials, employees, officers, directors, volunteers and representatives of the BDA and Bexar County) and the BOARD (and the officials, employees, officers, directors, volunteers and representatives of the BOARD), individually or collectively, from and against any and all defense costs, claims, liens, damages, judgments, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind in law or in equity and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the BDA, Bexar County and/or BOARD directly or indirectly arising out of, resulting from or related to Contractor's Subcontractor's activities under this Agreement, including any acts or omissions of any agent, officer, director, representative, employee, consultant or subcontractor of Contractor's Subcontractor and their respective officers, agents, employees, directors, and representatives while in the exercise or performance of the rights or duties under this Agreement.

The indemnity provided in the forgoing paragraph shall not apply to any liability resulting from the sole negligence of the BDA, Bexar County (and the elected officials, employees, officers, directors, volunteers and representatives of the BDA and Bexar County) or the BOARD (and the officials, employees, officers, directors, volunteers and representatives of the BOARD), in instances where such negligence causes personal injury, death, or property damage, except to the extent provided below.

IN THE EVENT CONTRACTOR'S SUBCONTRACTOR, BDA, BEXAR COUNTY AND/OR THE BOARD ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE BDA AND/OR THE BDA BOARD UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS, FEDERAL, OR INTERNATIONAL LAW.

Contractor shall advise the BDA, Bexar County and the BOARD in writing within 24 hours of any claim or demand against the BDA, the City and/or the BOARD, or Contractor known to Contractor related to or arising out of Contractor's

Subcontractor's activities under this Agreement. Contractor's Subcontractor shall see to the investigation and defense of any such claim or demand against Contractor's Subcontractor, the BDA, Bexar County or the BOARD at Contractor's Subcontractor's sole cost until the BDA, Bexar County or the BOARD is found to be negligent by a court of competent jurisdiction. The BDA, Bexar County and the BDA BOARD shall have the right, at their option and at their own expense, to participate in such defense without relieving Contractor's Subcontractor of any of its obligations under this paragraph.

The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Contractor acknowledges receipt of the indemnification document, and understands it will be incorporated into any contract awarded.

Contractor Signature & Title
Date

Date

APPENDIX I
RETAINAGE AND FINAL PAYMENT

After Engineer/Project Manager has issued the Certificate for Payment, the BDA shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Engineer/Project Manager.

A. Subject to provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

1. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5.00%). Pending final determination of cost to the BDA of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;
2. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the BDA, suitably stored off the site at a location agreed upon in writing), **less retainage of Five percent (5.00%);**
3. Subtract the aggregate of previous payments made by the BDA; and
4. Subtract amounts, if any, for which the ARCHITECT has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

B. The progress payment amount determined shall be further modified under the following circumstances:

1. Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the BDA's Representative shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
2. Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-1997.

C. BDA may refuse to recommend the whole payment or, any part of any payment if, in BDA's opinion, it would be incorrect to make such payment, because of subsequently discovered evidence, or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in BDA'S Representative's opinion to protect BDA from loss because:

1. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

2. the Contract Price has been reduced by Written Amendment or Change Order;
3. BDA has been required to correct defective Work or complete Work in accordance with the requirements noted herein this Agreement; or
4. BDA'S Representative's actual knowledge of the occurrence of any of the events enumerated herein.

CONTRACTOR shall keep efficient and accurate records of all costs incurred in connection with the Agreement, which shall be open to inspection by BDA or any authorized representative of BDA during course of the work and until one year after final billing.

- D. **Final Payment.** Upon final completion and acceptance of the Work, BDA shall pay the remainder of the Contract Price as recommended by BDA'S REPRESENTATIVE as provided in this section. However, if the BDA has received:
1. notice or has actual or perceived knowledge of any existing and un-waived payment bond claim from any subcontractors or suppliers, the BDA may withhold the final payment, an amount equal to the total amounts of such un-waived claim affidavits to satisfy any claims; and
 2. BDA may withhold final payment subject to CONTRACTOR's compliance with Section 7.13.

The making of Final Payment shall constitute a waiver of all claims by BDA except those arising from 1) unsettled payment bond claim, 2) guarantees as defined herein this Agreement, and 3) defective and/or non-conforming Work.

- E. **Close Out Documents.** Final payment is subject to the Contractor's delivery to the BDA of the following documents, if applicable, but not limited to:
1. **All** subcontractor and supplier final payment bond claim waivers;
 2. **Copies of subcontractor's cleared checks or documented proof of payment to the subcontractor(s);**
 3. Contractor's and subcontractor's one (1) year warranty bonds for labor and material;
 4. Any manufacturer's warranties;
 5. Operations and Maintenance manuals for installed equipment;
 6. "As Built" plans and shop drawings;
 7. Copies of any permits and inspections;
 8. Applicable MSDS Sheets;
 9. Engineer's/BDA's Representative's Final Acceptance;
 10. **Final Acceptance of Public Improvements by necessary public entity; and**
 11. **Any Separate Maintenance Agreements (i.e. landscaping).**

The making of progress payments by BDA shall not be construed as an absolute acceptance of the work done up to the time of such payments. BDA, however, may exercise reasonable care in discovering and reporting to CONTRACTOR as the work

progresses all materials and labor which are not in accordance with drawings and specifications, so as to avoid unnecessary trouble and cost to CONTRACTOR in correcting defective work, however, failure of BDA to notify CONTRACTOR of non-conforming work shall not relieve CONTRACTOR of responsibility to correct non-conforming work.

The Contractor agrees and understands that retainage will not be paid until ALL of the documents referenced in Section E have been received, AND FINAL ACCEPTANCE OF PUBLIC IMPROVEMENTS by necessary public entity.

It is the responsibility of the Contractor to ensure that all Subcontractors are aware that retainage will be held until the documents are received. Upon award of the contract it is the Contractor's responsibility to have all Subcontractors execute this document.

Contractor's Name/Title

Date

APPENDIX J
Addendums

I acknowledge receipt of all addendums and special provisions.

Signature & Title

Date

PROPOSAL CHECKLIST

Be sure to include the following items:

- One (1) hard copy of the proposal in a three ring binder, including appendices) and one (1) CD-Rom or USB drive containing the proposal (without appendices) which specifically address the criteria as referenced on page 7; limited to 10 pages (**Do not include copies of the Appendices on the CD-ROM or USB drive. It is the responsibility of the bidder to ensure that all copies of the CD-ROMS or USB drives are readable and not corrupt**);
- One complete copy of Appendices A-J should be included in the three ring binder. BDA requests that appendices not be manipulated with software. Typed or handwritten appendixes are acceptable:
 - Appendix A – Contractor’s Vendor Profile;
 - Appendix C – Confidentiality Statement;
 - Appendix D – Insurance Requirement Affidavit;
 - Appendix E – Proposal Affidavit;
 - Appendix F– Small Business Economic Development Advocacy (SBEDA) Requirements;
 - Historically Good Faith Effort Plan;
 - Appendix G – Ethics Ordinance Required Disclosure;
 - Appendix H – Indemnification Requirements;
 - Appendix I – Retainage and Final Payment;
 - Appendix J – Addendums