



SOLICITATION NO: F-13-001-MR
RELEASE DATE: April 12, 2013
AMENDED: September 10, 2013

CALL FOR PARTICIPATION

**CONSERVATION WATERSAVER COUPON PROGRAM
FOR SMART LANDSCAPE DESIGN**

Pre-Submittal Conference: Thursday April 18, 2013

**Deadline: This Call Will Remain Active
Until Closed By Addendum**

I. Project Information

A. Objective

The main goal of the San Antonio Water System (SAWS) WaterSaver Coupon Program is to encourage customers to reduce landscape irrigation and promote smart landscape design through prepackaged landscape projects.

B. Scope of Services

SAWS' Conservation Department shall develop seasonal landscape packages the first of which is included with this CALL DOCUMENT. These packages generally consist of descriptions of acceptable materials to be purchased from participating vendors or contractors to replace a specified square feet of turf. As specified per seasonal package, SAWS shall make available funds in the form of a coupon to qualifying customers. Participating vendors or contractors shall accept the "coupon" issued by SAWS as cash, and then submit all coupons on a monthly basis to SAWS for reimbursement. The vendors or contractors shall furnish a detailed copy of the sales receipt for every coupon they submit on a thirty-day billing cycle.

C. Estimated Timeline – The dates listed below are subject to change without notice.

April 12 2013 Call for Participation Released
April 18, 2013Highly Recommended Pre-Submittal Conference #1
April 19, 2013 Response Packages May Be Submitted
September 13, 2013..... This Amended Call Document Released
After April 19, 2013 Response Packages and Participation Statements Evaluated
After April 19, 2013 Interviews, if necessary
After April 19, 2013 Selected Firms Notified
After May 25, 2013.....Anticipated public launch of program
Each Fiscal Quarter New Packages are Posted to SAWS Website*
Questions may be submitted at any time.

*Anticipated

II. Selection Process

A. Selection

Participating firms will be selected based on the quality and content of the Response Packages and Participation Statements and their ability to accept the standard form contract agreement attached to this document.

B. Interviews

None anticipated however, if in the event meetings with your firm are deemed necessary, the Respondents will arrange to provide answers any questions posed by SAWS Conservation Staff.

III. Communication

A. Recommended Pre-Submittal Conference

1. Respondents may ask verbal questions regarding this Call for Participation at the recommended Pre-Submittal Conference on:

Thursday April 14, 2013 at 2:00 PM Central Time
SAWS Headquarters, Conference Room CR-C145
SAWS Customer Center Building as shown on the enclosed Map.

2. Contact Marc Ripley via email mripley@saws.org if directions to the location are needed.
3. Attendance is encouraged in order for the proposed Respondent to gain a better understanding of the program and ask relevant questions.
4. Additional Pre-Submittal Conferences may be scheduled throughout the year as new/potential Respondents show interest. All proposed Respondents must complete a pre-submittal meeting prior to accepting his/her proposal.
5. Any oral responses provided by SAWS staff at the Pre-Submittal Conference shall be preliminary. A written summary of the Pre-Submittal Conference shall contain official responses, if any. Any oral response given at the Pre-Submittal Conference that is not confirmed in the written summary of the Pre-Submittal Conference or by a subsequent addendum shall not be official or binding on SAWS. Only written responses shall be official and all other forms of communication with any officer, employee or agent of SAWS shall not be binding on SAWS.

C. Technical Questions

1. Respondents may submit technical questions concerning the services in this Call for Participation, in writing or by telephone however electronic inquiries by e-mail or fax are preferred. The Contact Person for this project is:

Brandon Leister, Planner IV
Conservation Department
San Antonio Water System
Customer Center Building
2800 U.S. Hwy 281 North,
San Antonio, TX 78212

Email: Brandon.Leister@saws.org
Phone: 210-233-3620
Fax to 210-233-5384

2. Questions regarding this Call for Participation may be received at any time this Call for Participation is actively open.
3. Answers to the questions will usually be provided directly however if clarifications are deemed beneficial to all participants, such information will be posted to the website containing this program's information and documentation.

D. **Small, Minority, Women-Owned Business SMWB Identification**

Please provide your SMWB status in the supplied SMWB Exhibit.

E. Submittal or Status Questions

1. For questions regarding this Call for Participation document or to check on the status of your submission please contact Marc Ripley, Contract Administrator, via e-mail at mripley@saws.org or by fax at 210-233-4609.

F. Submittal Clarification

SAWS reserves the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such is deemed desirable by SAWS.

IV. Submitting a Response

A. Deadline

Responses may be submitted and will be received until public notification of the cessation of the program or should the Call for Participation has been terminated.

B. Submission

1. Submission of Responses – Please submit two copies of your response in a sealed package, with the program name “ WaterSaver Coupon Call for Participation #1” clearly identified on the outside of the package.

San Antonio Water System
Attn: Contract Administration
Customer Center Building
2800 U.S. Hwy 281 North, Suite 171
San Antonio, Texas 78212

3. If the submittal to this Call for Participation is by any means other than personal delivery, then it is the Respondent's sole responsibility to ensure the submittals are received.
4. If submission is by personal delivery, allow fifteen (15) minutes for check-in with the guard. SAWS map is attached.
5. Responses are limited to the required form included as New Landscape Package Exhibit.
6. By submission of a response, the Respondent acknowledges that it has read and thoroughly understands this document and enclosed contract agreement, agrees to all terms and conditions stated herein, and acknowledges that it can perform all tasks as required.

C. Response Format - The response shall be organized as follows, and each section shall be titled accordingly:

1. Respondent Questionnaire

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

2. W-9 Form

Please submit a completed and signed W-9 Form with your proposal. Please go to <http://www.irs.gov/formspubs/index.html?portlet=3> to download the form, if needed.

3. Firm Information and Participation Plan:

Please provide an informational document or brochure which tells SAWS about your nursery. Be sure to include a description of your retail location(s) and anticipated product volume. Also provide SAWS with possible ideas how you would implement this Water Saver Coupon program into your operations.

4. Conflict of Interest Questionnaire (CIQ) Exhibit
Ethics Policy and Disclosure

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with SAWS shall file a completed Conflict of Interest Questionnaire (CIQ) with SAWS.

The CIQ will be submitted as part of the response to this Call for Participation from SAWS. You may use the attached CIQ EXHIBIT or an alternate document from the Texas Ethics Commission at www.ethics.state.tx.us.

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

VII. Contract

A. The Contract terms and conditions are attached as an Exhibit for review purposes. Respondent must acknowledge the contract terms and conditions on the Respondent Questionnaire. Should changes to the contract be made by SAWS the example contract will be replaced by addendum.

B. Contract Requirements after award:

Upon receipt of the notice of pending Board award of a Contract for Services, the selected Respondent shall provide a "Corporate Authorization Resolution" which lists by name or position the individuals authorized to contractually bind the company must accompany the signed contract returned to SAWS.

C. Approved Vendor/Contractor Types*

- Nurseries
- Landscape Contractors
- Landscape Stone Suppliers
- Landscape Architects
- Landscape Designer/Consultant
- Irrigation Contractor
- Irrigation Supply Distributor
- Landscape Retail Locations
- Irrigation Supply Manufacture
- Lumber and Decking Suppliers
- Irrigation Retail Locations
- Wholesale Plant Suppliers

*This list is an example and not all inclusive, additional vendor/contractor types will be added as they are approved.

IX. Other Requirements

Other key requirements that should be noted are as follows:

1. Any unresolved issues with SAWS may affect your competitiveness.
2. All contracts will require the provision for a "Right-to-Audit" clause.

X. Reservation of Rights

A. SAWS reserves the right to:

1. Reject any and all submittals received;
2. Issue a subsequent Call for Participation;
3. Cancel the entire Call for Participation;
4. Remedy technical errors in the Call for Participation process;
5. Accept the written proposal as an offer;
6. Waive informalities and irregularities;
7. Accept multiple proposals;
8. Make multiple recommendations to the Board;
9. Request additional information or clarification;
10. All responses and their contents will become the property of SAWS.

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

C. This Call for Participation does not commit SAWS to enter into a contract, nor does it obligate it to pay any costs incurred in the preparation and submission of proposals or in anticipation of a contract.



To access the SAWS Customer Center building:

From northbound U.S. 281:

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

To access the SAWS Customer Center building:

From southbound U.S. 281:

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



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



RESPONDENT QUESTIONNAIRE EXHIBIT

PROJECT NAME: _____

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

GENERAL INFORMATION

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

Respondent Name: _____

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

Principal Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Social Security Number or Federal Employer Identification Number: _____

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

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Email: _____

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

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

Yes No

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

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

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6. **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.

7. **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.

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

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

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

Yes No

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

Yes No

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

Yes No

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

11. **Compliance Agreement:**

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

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

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

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

Does the Respondent agree to the above?

Yes No

12. **Contract Terms and Conditions:** Respondent acknowledges having read the contract attached to this Call for Participation. By responding to this Call for Participation , Respondent agrees to these terms and conditions.

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

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

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

None Yes If "Yes", Identify.

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

Signature

Date

Printed Name

Title

Small, Minority, Women-Owned Business SMWB Identification Exhibit

SMWB Language for Conservation Rebates:

Is your business certified as a Small, Minority, or Woman-owned Business (SMWB) Enterprise? Please check the following blanks which apply to your company (ownership of firm 51% or more):

- Non-minority
- Hispanic
- African-American
- Asian
- Native American
- Female Owned
- Small Business

What agency did your business obtain SMWB certification/designation from?

- South Central Texas Regional Certification Agency (SCTRCA)
- State of Texas Historically Underutilized Business (HUB)
- Federal SMWB designation

CONFLICT OF INTEREST QUESTIONNAIRE EXHIBIT

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

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

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

OFFICE USE ONLY

Date Received

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

2

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

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3. Name of local government officer with whom filer has employment or business relationship.

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or business relationship as defined by Section 176.001 (1-a), Local Government Code.. Attach additional pages to this Form CIQ as necessary.

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

Yes

No

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

Yes

No

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

Yes

No

D. Describe each employment or business relationship with the local government officer named in this section.

4.

Signature of person doing business with the governmental entity

Date

FALL PACKAGE REQUIREMENTS

Package Requirements

- Participating firms will need to have at least 10 plants of each species on “day one” of their participation. If plants are sold out, it is not necessary to replenish however an approved alternate plant needs to be available from each section.
- Mulch or rock is required in the beds but may be purchased separate from the coupon
- Plants in the medium and large categories must be purchased in 1 gallon size minimum
- If the plants do not equal \$100 the customer may buy mulch if they choose but the coupon may not be used toward additional plants or any other item in the nursery
- All coupons regardless of issue date will expire on December 31st, 2013. Expired coupons will not be reissued, customers will have to wait to reapply in the spring.
- The program will run September 15th through November 30th, 2013
- Each package will have a total of 15 plants
- There are two options in this group
 - Full Sun package
 - Partial Shade package
- There will be 3 plant groups to choose from in each package with 3 choices in each as described below
- A customer can mix and match within each category group
- Customers may be approved for up to 2 coupons. Two sun, 2 shade or 1 sun and 1 shade
- Customers are expected to remove a minimum of 200 SF per coupon package and may have been approved for up to two coupons.
- In general, SAWS will have information on each plant, planting tips, care guide, bed layout/design and other tips/information as appropriate that will be given to the customer along with their coupon. SAWS will provide each participating nursery the same information given the customer.
- Firms can develop Point of Purchase display from the information. Refer to the contract agreement for terms and conditions regarding marketing.

Package Descriptions:

SUN PACKAGE 200 square feet

7 small evergreens from the following choices:

Red Yucca (*Hesperaloe parvifolia*)
Bulbine (*Bulbine frutescens*)
Upright rosemary (*Rosmarinus officinalis*)

7 spreading perennial from the following choices:

Any lantana (*Lantana sp.*)
Any Yucca (*Yucca sp.*)...

1 big shrub from the following choices:

Cenizo (*Leucophyllum frutescens*)
Esperanza (*Tecoma stans*)
Spineless prickly pear (*Opuntia ellisiana*)

1 cubic yard minimum of organic or inorganic mulch

PARTIAL SHADE PACKAGE 200 square feet

7 small evergreens from the following choices:

Red Yucca (*Hesperaloe parvifolia*)
Autumn sage (*Salvia greggii*)
Upright rosemary (*Rosmarinus officinalis*)

7 large perennials from the following choices:

'Indigo Spires' Sage (*Salvia* x 'Indigo Spires')
Plumbago (*Plumbago auriculata*)
Butterfly iris (*Dietes sp. grandiflora* or *bicolor*)

1 big shrub from the following choices:

Texas mountain laurel (*Sophora secundiflora* i.e.)
Yaupon holly (*Ilex vomitoria*)
Anacacho orchid tree (*Bauhinia lunaroides*)

1 cubic yard minimum of organic or inorganic mulch

CONTRACT EXHIBIT

WATERSAVER COUPON PROGRAM PARTICIPATION AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This WaterSaver Coupon Program Participation Agreement (the "Contract") is entered into by and between the San Antonio Water System ("SAWS"), a water, wastewater, and water reuse agency of the City of San Antonio, Texas and _____ (the "Program Participant").

WHEREAS, conserving water in the San Antonio region has been identified by SAWS as a cost-effective approach to managing water resources; and

WHEREAS, SAWS has developed the WaterSaver Coupon Program (the "Program"), whereby eligible customers would receive a coupon that can be redeemed at a qualified vendor for certain predetermined landscape package or packages of plants and cover materials, thereby reducing landscape irrigation and promoting smart landscape design; and

WHEREAS, Program Participant desires to participate as a qualified vendor in the Program, on the terms and conditions herein; and

NOW THEREFORE, for good and valuable consideration, including but not limited to the mutual covenants contained herein, the parties hereto agree as follows:

TERM

Subject to the early termination provisions provided for herein, the term of this Contract shall be for a period of three (3) years beginning on the date of this Contract. This Contract may be renewed by SAWS for two (2) one-year terms by written notice from SAWS to Program Participant prior to the expiration of the then-current term.

PROGRAM TERMS

Acceptance of WaterSaver Coupon Package

SAWS will from time to time create certain predetermined WaterSaver Coupon packages (each a "Package") consisting of certain quantities and types of plants, mulch and/or other materials. Upon creation of a Package, SAWS will send a notice (each notice being a "New Package Notification") to Program Participant of the Package and the amount of money SAWS will offer to its qualified customers as a rebate for the purchase of such package (each, a "Coupon Amount"). Within ten (10) days from receipt of a New Package Notification, Program Participant shall notify SAWS of whether Program Participant will NOT participate in the WaterSaver Coupon Program for that particular Package at that particular Coupon Amount. Failure of Program Participant to reply to a New Package

Notification will constitute acceptance of such Package and corresponding Coupon Amount, and same will collectively become an “Accepted Package.”

SAWS and Program Participant hereby agree that the _____ Packages, and the corresponding Coupon Amounts, all as described in Exhibits attached hereto, are Accepted Packages.

2.02 Acceptance of WaterSaver Coupons.

For each Accepted Package, SAWS will issue coupon to customers for the Coupon Amount (each, a “Coupon Voucher”). In connection with the sale of an Accepted Package to the customer, Program Participant agrees to accept a WaterSaver Coupon and deduct the Coupon Amount from the Program Participant’s price for the Accepted Package. The customer must purchase the entire Accepted Package (e.g. all constituent components of the Accepted Package in no less than the quantities set forth for that Package) in order for the use of the WaterSaver Coupon to be valid and reimbursable under this Contract. Program Participant will be responsible for accepting preapproved coupons for predetermined landscape packages, provide documentation back to SAWS and bill SAWS accordingly for these coupons.

SAWS and Program Participant agree that SAWS has no control over the prices charged by the Program Participant for any Accepted Package.

Program Participant agrees that no cash or store credit refunds shall be given for merchandise returned that is part of an Accepted Package and for which Program Participant accepted a WaterSaver Coupon. Program Participant may warranty merchandise for replacement at Program Participant’s discretion.

1.03 Invoicing for WaterSaver Coupons

Program Participant shall submit invoices to SAWS to receive reimbursement for WaterSaver Coupons for Accepted Packages accepted by Program Participant. Program Participant may choose to submit monthly or weekly invoices. Each invoice shall include:

- (i) a statement of the total number of WaterSaver Coupons for which payment is being sought;
- (ii) copies of signed and itemized receipts for each Package sale for which a WaterSaver Coupon was applied; and
- (iii) a return of each WaterSaver Coupon submitted by the customer and accepted by Program Participant.

Invoices shall be sent to: San Antonio Water System
 Attention – Brandon Leister
 Conservation Department
 P.O. Box 2449

Properly submitted invoices shall be paid by SAWS within 30 days following receipt. To be eligible for reimbursement by SAWS and as a condition precedent to reimbursement, Program Participant must submit an invoice for a WaterSaver Coupon within 90 days after the applicable sale of the Package.

Submission of an invoice shall constitute a representation by Program Participant that no cash or store credit refunds were given for the purchase of Accepted Packages for which Program Participant is seeking reimbursement of WaterSaver Coupon.

Suspension and Reinstatement of Program Packages.

SAWS may, upon no less than twenty (20) days prior notice to Program Participant, suspend the Program as to some or all Packages. The notice of suspension will set forth the effective suspension date, and SAWS will not pay Program Participant reimbursement, and Program Participant may not invoice SAWS for, suspended Packages sold on or after the effective suspension date. Packages that have been suspended by SAWS may be reinstated upon no less than twenty (20) days prior notice to Program Participant which will set forth the effective reinstatement date for such Package(s), provided, however, Program Participant may elect to opt-out of participating in a reinstated Package as an Accepted Package by providing notice to SAWS within ten (10) days following the date of SAWS reinstatement notice to Program Participant.

Advertising

Program Participant will display branding for the WaterSaver Coupon program onsite, as well as in advertising for all program materials. Note that branding shall include the program name and SAWS logo or name. Program Participant shall consult with SAWS Conservation Staff in advance to confirm the accuracy of any statements contained in such proposed advertising or signage.

Contacts and Hours of Operation

Program Participant will be expected to have a contact person available during regular business hours to facilitate communication between SAWS and the organization. Program Participant hereby designates _____ as its representative for contact.

Events

The Program Participant shall notify SAWS in advance of any events held by Program Participant concerning the Program and will allow participation by SAWS Conservation Department in all such events.

Partnerships

Program Participant will coordinate with other SAWS partners, employees, and Program Participants as appropriate in furtherance of the objectives of this goal of the Program.

**Notice to SAWS of Any Condition Adversely Affecting Fulfillment of
Obligation of the Contract Duties**

Program Participant will provide notice to SAWS immediately (on the same day) upon becoming aware of any condition that adversely affects the ability of Program Participant to perform its obligations under this Contract.

DESIGNATED REPRESENTATIVE

SAWS' initial representative for this Contract is Brandon Leister- Planner IV, Conservation Department.

RELEASE OF SAWS

Program Participant hereby expressly releases SAWS from any and all liability to Program Participant resulting from any damages (including punitive, special, indirect, or consequential damages) arising from Program Participant's performance of its obligations under this Contract, including but not limited to:

claims for damages because of bodily injury, sickness, or disease of Program Participant's employees and agents or by those of any supplier or by anyone indirectly employed by any of them; and

claims for damages to or destruction of tangible property of others, including loss of use thereof.

INDEMNIFICATION

PROGRAM PARTICIPANT AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY OF SAN ANTONIO, SAWS, AND EACH OF THEIR OFFICERS, AGENTS, SERVANTS, EMPLOYEES FROM ALL SUITS, ACTIONS LOSSES, DAMAGES, CLAIMS OR LIABILITY, PENALTIES AND COSTS OR DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS FEES, DAMAGES FOR INJURY, DEATH OR PROPERTY DAMAGE SUSTAINED BY ANY PERSON OR PERSONS ARISING OUT OF OR OCCASIONED BY THE NEGLIGENT ACTS OF PROGRAM PARTICIPANT, ITS OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES OR PROGRAM PARTICIPANT'S BREACH OF THE TERMS AND CONDITIONS OF THIS CONTRACT.

NOTICES

Notices to the parties under this Contract shall be given in writing (except a party may provide notice solely by telephone in the case of an emergency) via certified mail, fax or email to the following addresses, and notices shall be effective upon transmittal by fax or email, or two (2) business days after placing in the mail:

SAWS: Brandon Leister
Conservation Department
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
Email: Brandon.leister@saws.org
Phone: (210) 233-3620
Fax: (210) 233-5384

Program Participant:

Email:
Phone:
Fax:

7.00 NOTICE OF TERMINATION

This Contract may be terminated at any time by either party, provided that written notice of termination is given at least thirty (30) days in advance of the intended date of termination. Notwithstanding the provisions of Section 2.03, to be eligible for and as a condition precedent to reimbursement by SAWS, Program Participant must submit all outstanding invoices for WaterSaver Coupon within sixty (60) days following the effective date of termination.

8.00 RIGHT TO AUDIT

SAWS has the right to audit, at SAWS' expense, Program Participant records and all supporting documentation for the purposes of compliance with this Contract for three (3) years following the expiration or earlier termination of this Contract.

9.00 ASSIGNMENT

Program Participant shall not assign or transfer this Contract, in whole or in part, without the prior written consent of SAWS, which may be withheld or conditioned in SAWS sole discretion.

10.00 NO JOINT VENTURE, NO THIRD-PARTY BENEFICIARY

In no event will Program Participant hold itself out as, act as or be an agent of SAWS. This Contract is not intended to and shall not result in a partnership or joint venture between the parties hereto. SAWS and Program Participant are entering into this Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto and their permitted assigns.

11.00 COMPLIANCE WITH ALL APPROPRIATE LAWS

Program Participant will fully comply with all appropriate local, state and federal laws, regulations and ordinances governing the acquisition of materials and performance of contractual Services required hereunder, in accordance with professional standards of care.

12.00 DISPUTE RESOLUTION

In the event a dispute arises between the parties regarding the application or interpretation of any provision of this Contract or any matter pertaining to transactions contemplated by this Contract, the aggrieved party shall notify the other party in writing of the nature of the dispute within ten (10) days after such dispute arises. If the matter cannot be resolved informally within ten (10) days, the dispute shall be referred to a meeting between a designated officer of each party not otherwise involved in the administration of this Contract. This meeting shall occur within ten (10) days of the referral. If the parties are unable to resolve the dispute within fifteen (15) days after the meeting has occurred or if the meeting does not occur, then, without waiving any defenses or immunities that may be available to a party, each party shall have the right to pursue any and all remedies available at law or in equity.

13.00 GOVERNING LAW

This Contract shall be governed by, construed and enforced under the laws of the United States and the State of Texas as applicable without giving effect to the principles of conflicts of law thereof, and shall, to the maximum extent practicable, be deemed to call for performance in Bexar County, Texas. Program Participant expressly consents to the court of competent jurisdiction in Bexar County, Texas.

14.00 FURTHER ACTIONS

The parties hereto agree to execute, acknowledge and deliver such further documents as may be necessary or proper to carry out the purpose and intent of this Contract.

15.00 ENTIRE CONTRACT

This Contract, including the schedules, exhibits and addenda referred to in this Contract, which are incorporated in and constitute a part of this Contract, contains the entire Contract of the parties hereto and supercedes all prior oral or written Contracts, negotiations, representations and understandings with respect to the subject matter. This Contract may not be amended or modified except by a writing signed by the parties.

16.00 WAIVER

Any waiver at any time by either party with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or matter.

17.00 APPROVALS

All approvals and contracts by either party that are required or contemplated under this Contract must be in writing unless other means are specifically permitted, and must be signed by the person authorized to give such approvals and make such contracts for that party. The persons authorized to give such approvals and make such contracts for the parties shall, until changed as hereinafter provided, be as follows: for Program Participant, the undersigned representative and for SAWS, the President/Chief Executive Officer. Each party shall have the right at any time to change the person authorized to give such approvals and make such contracts by giving at least fifteen (15) days written notice to the other party.

18.00 FORCE/MAJEURE

This Contract shall be subject to all applicable federal, state and county and municipal laws, executive orders, ordinances, rules, regulations and acts, and this Contract shall not be terminated, in whole or in part, nor shall the Parties hereto be held liable in damages, for failure to comply therewith, if compliance is prevented by, or the failure is the result of, any such law, order, ordinance, rule, regulation or act, or due to force majeure. The term "force majeure" as used herein shall mean: any act of God, including but not limited to, storms, floods, washouts, earthquakes, landslides, fires and lightning; acts of the public enemy; wars, blockage, insurrections, riots or other public disorders; lockouts, strikes or other labor disturbances, epidemics or quarantine regulations, freight embargoes or failures; exhaustion or unavailability or delays in delivery of any product, labor, fuel, service or material not the fault of the parties; breakdown or failure of parties' equipment; interference by a governmental entity; or any other event or condition beyond the reasonable control of the parties.

19.00 SEVERABILITY

Should any part, paragraph, sentence, phrase, clause, or word of this Contract for any reason be held illegal, inoperative, or invalid or if any exception to or limitation upon any general provision herein contained be held to be invalid or ineffective, the remainder shall nevertheless stand effective and valid as if this Contract had been executed without the portion held to be invalid or ineffective.

20.00 JOINT PREPARATION

The parties shall be deemed to have jointly prepared this Contract and no ambiguity herein shall be construed by or for or against any party based on the identity of the author of this Contract or any portion herein.

21.00 CAPTIONS

The captions and headings appearing in this Contract are inserted merely to facilitate reference and are not to be considered a part of this Contract and in no way shall they affect the interpretation of any of the provisions of this Contract.

22.00 COUNTERPARTS

This Contract may be executed in one or more counterparts, each of which will be deemed an original. Faxed signatures and countersignatures shall be deemed originals for all purposes and proper evidence of assent to this Contract.

[Remainder of Page Intentionally Left Blank]

Contract Example
Do not submit

IN WITNESS WHEREOF the parties hereto have respectively caused this Contract to be duly executed as of the _____ day of _____, 2013.

PROGRAM PARTICIPANT:

SAN ANTONIO WATER SYSTEM

Philip C. Campos, Jr., CPA
Director – Contracting

Name:
Title:

Contract Example
Do not submit