



REQUEST FOR INFORMATION | F-14-002-MR

RELEASE DATE: July 3, 2014

For the following three areas:

- **Drug & Alcohol Screening & Medical Review Services**
- **Workers Compensation Program, Pre-Employment Physicals, Post-Accident and Return to Work Evaluations**
- **Environmental and Occupational Health**

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Responses are being accepted anytime up to August 4, 2014

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I. Project Information

a. Background and Assumptions

SAWS employees are strategically located at over 19 facilities throughout the Greater San Antonio area in order to respond around the clock 24 hours per day/ seven (7) days per week (24/7) to the various water, wastewater, and recycle water needs of its customers.

b. Objective

The San Antonio Water System (SAWS) requires qualified firms to provide Medical Services and Treatment Provider (MSTP) services. The purpose of this Request for Information (RFI) is to reach out to the service provider and business community to elicit interest and feedback to maximize response to a Request for Proposals (RFP) expected to be released sometime in the third quarter of 2014.

Administrative Information:

- All expenses associated with the submissions under this RFI shall be borne by the participants only. In no event shall participants be entitled to any refund or monetary compensation in connection with their participation in this RFI.
- SAWS reserves the right to introduce modifications and/or changes to this request for information.
- This RFI is not a formal solicitation or an undertaking to tender or negotiate in any way. This RFI will not create any obligation and/or liability from the System to the responder.
- SAWS may transfer information received from this RFI to its consultants and to every person entitled by law to receive it. If the information provided includes components that are proprietary, professional or trade secrets, your objection to the release of this information should be explicitly noted.

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

July 3, 2014 RFI Issued
 August 4, 2014 RFI period ends
 Third Quarter 2014 Expected release of RFP

Responses to this RFI will be used to improve SAWS’ understanding of local availability for the services requested and to improve the soon to be released RFP documents

II. Submittals

a. Questions

Respondents may submit any questions concerning the services in this RFI, in writing or by telephone. The Contact Person for this project is:

Marc A. Ripley
Contract Administrator
San Antonio Water System
2800 U.S. Hwy 281 North, Suite 171
San Antonio, TX 78212
Email: mripley@saws.org

b. Submittal Clarification

SAWS reserves the right to contact any Respondent for clarification after receiving your responses.

SERVICES REQUIRED:

Drug & Alcohol Screening & Medical Review Services

- a. The Respondent shall provide drug and alcohol (D&A) screens for the System personnel as part of the Systems hiring practice, as part of an accident/ incident investigation, for reasonable suspicion, and as part of an on-site random screening D&A program for employees having commercial driver's licenses (CDLs) and other System testing programs.
- b. The Respondent must be able to perform on a 24/7 basis the 5-panel and NIDA standards for the Random screen. This requirement is in direct support of the System's commitment to a drug-free workplace. The basis for these screens is the DOT regulations requiring CDL drivers to be subject to a random drug screen and the System's driver policy requiring a post-accident drug screen. The System's quarterly average number of random drug screens conducted is approximately 75. Annual random drug testing in compliance with the DOT regulations is 50% of the Systems Commercial Driver's License population or approximately 300 tests per year.
- c. The Respondent shall be able to perform on a 24/7 basis alcohol testing using a saliva device for screening and/or a breath alcohol using an evidential breath testing device following DOT requirements. The System's quarterly average number of random alcohol screens conducted is approximately 40 or 160 per year.

- d. The Respondent must be able to perform a rapid response screening as well as confirmation testing on a 24/7 basis for all post-accidents as well as select post-incidents according to the DOT Drug & Alcohol (D&A) Testing requirements. The System’s quarterly average number of post-accident D&A screens conducted is about 40. The Respondent shall acknowledge acceptance of reporting results within the required time limits listed in Table 2.

Table 2 – Time Limits

Test	Time Limit – Within
Rapid response drug	1 hour from collection
Alcohol	24-48 hours of testing
Random drug	24-48 hours from collection
Post-accident drug and/or alcohol	24-48 hours from collection
Reasonable Suspicion	24-48 hours from collection

- e. The Respondent shall describe how they shall meet the 24/7 requirement to include location for collection of the specimen and response time to collect if the location will be at a System facility or location. The response shall include procedures for Medical Review Officer (MRO) oversight of the test results.
- f. Test and collection results shall be emailed and/or scanned to the System’s designated person(s) within the allotted timeframe clearly identifying the type of test and the employee’s name in the subject line.
- g. The Respondent shall provide immediate notification of positive tests results by email and follow-up phone call.
- h. Invoices shall be separated by test performed for example: all pre-employment tests on one invoice and all post-accident tests together on a separate invoice.

Workers Compensation Program, Pre-Employment Physicals, Post-Accident and Return to Work Evaluations

1. **Workers Compensation:** Even though approximately 95% of the occupationally related injuries & illnesses for which employees need to be seen by a medical provider occur between the hours of 6 a.m. and 11:00 p.m., the Respondent shall provide medical service

coverage on a 24/7 basis either through its own resources or in conjunction with other medical service providers through mutual agreements. The respondent shall describe how they will provide 24/7 emergency medical treatment of the System's employees who are injured on the job and are eligible to be treated under the State of Texas Workers' Compensation regulations. The Respondent shall be familiar with Texas Workers' Compensation Statutes (Labor Code, Chapters 401 – 451) and the Texas Administrative Code (TAC) (Title 28, Part 2, Chapters 41 – 182) requirements and agree to comply with them to include the referral, treatment, pharmaceutical, and cost structure. The System is self-insured for Workers Compensation and processes the state required documents to meet the state's timelines. The Respondent shall acknowledge that they shall comply with the following minimum requirements:

- a. Shall fax or make available through an online source the DWC73 and progress/encounter notes to the System adjuster within 24 hours of injured worker having been examined by the doctor in accordance with 28 TAC §129.5. If the evaluation is on a Friday, Saturday, or Sunday, the adjuster shall be notified by 10 a.m. the following Monday.
- b. Shall be able to perform a return-to-work (RTW) physical examination, in accordance with the Systems policy which will be provided to successful bidder, prior to fully releasing the injured worker.
- c. Shall complete DWC69 and fax or make available through an online source, within four [4] hours of completion, to the System adjuster in accordance with 28 TAC §130.1 when the injured worker has reached maximum medical improvement.
- d. Shall be familiar with and follow the Pharmacy Closed formulary rules in accordance with 28 TAC §134.500 through §134.550.
- e. Shall use the System preferred Pharmacy Benefit Management (PBM) and distribute the first time fill information sheet to the System's injured workers.
- f. Shall fax all pre-certification/authorization requests to the System Utility Review Agent (URA) within four (4) hours of a determination for such request.

2. Pre-employment and Return-to-Work Physical Examinations: The Respondent must be able to perform during normal business hours both pre-employment and return-to-work physical examinations in accordance with regulatory and the System's standards. The System's monthly average number of pre-employment physicals is approximately ten (10) and return-to-work physical examinations conducted is approximately seven (7) for occupational and non-occupational injuries/illnesses.

- a. Pre-employment physicals for prospective System employees shall include a program similar to Worksteps™.
- b. The specific level of pre-employment medical evaluation will vary depending upon the physical requirements prospective employees will need for their work assignment. For example, some pre-employment physicals will require baseline audiometric examinations complying with federal Occupational Safety and Health Act (OSHA) standard 29 Code of Federal Regulations (CFR) 1910.95 while other may require lesser procedures. Some employees may require defined optical evaluations to determine if the visual acuity is no greater than 20-40 corrected or the individual has a specified level of color vision deficiency that would interfere with their ability to perform critical elements of the assigned task. Specific physical examination requirements will be provided to the selected Respondent. The Respondent shall acknowledge acceptance of reporting results within the required time limits listed in Table 1.
- c. The Respondent must be able to perform on a 24/7 basis the 5-panel, NIDA standards for the Random screen and the 10 panel drug screen for pre-employment testing for non-Department of Transportation (DOT) positions. This requirement is in direct support of the System’s commitment to a drug-free workplace.

Table 1 – Physical Procedure

Procedure	Time Limit – Within
Pre-employment exam	24 hours of exam
Return to work test	24 hours of test
Worksteps™ test	24 hours of test
Pre-employment drug	48-72 hours from collection

Invoices shall be separated by physical procedure performed for example: all pre-employment procedures on one invoice and all return to work procedures on a separate invoice.

Environmental and Occupational Health

a. Environmental Health/Preventive Health Services & Support

- 1) On-site vaccinations. The Respondent shall provide on-site influenza (approximately 900 per year), tetanus/diphtheria booster (approximately 80 per year), hepatitis-B

(approximately 100 per year), and other vaccines as requested by the System. The vaccinations are normally provided at the beginning of the employee's shift (as early as 5:45 a.m. or as late as 6:30 p.m.) at the various System locations with one or more work sites visited per day. Vaccination consent form documentation shall enable the System to verify individual vaccinations.

- 2) Provide consultation service for the System's Automated External Defibrillator (AED) program as defined in the Texas Health & Safety Code, Chapter 779.
- 3) Provide first aid/CPR/AED training for the System designated first aid responders. The System may use other qualified first aid providers to support this training.
- 4) Provide preventive and occupational health training and presentations as requested by the System. This support may require the Respondent to be at some System locations as early as 6:00 a.m. and at other locations as late as 7:00 p.m.

b. Occupational Health Services & Support

- 1) General Information. Some System employees work in environments that could adversely impact their health. The major potential occupational exposures to System employees can occur from gaseous or liquid chlorine, sulfur dioxide, and/or hydrogen sulfide. The system requests support in the areas listed in b. 2) through b. 5) below. The Respondent must be able to provide cost-effective, consultation services and medical surveillance using medical personnel knowledgeable in occupational health. These personnel shall be knowledgeable of federal (OSHA) and state occupational health examination requirements. The Respondents shall provide HAZMAT (to include wearing a respirator) physical components, to include frequency and specific medical screening tests to be administered such as chemical profile (list included substances screened), CBC, specific radiographic (specify type such as P-A, lateral) and urinalysis (specify substances screened).
- 2) Provide pre-employment, periodic, and post-employment occupational health physical examinations, as requested, with recommendations for fitness for duty and any defined restrictions for those System employees involved with:
 - i. Hazard material (HAZMAT) handling and emergency response, to include evaluation of the respiratory system to over 150 employees (reference: 29 CFR 1910.120, 29 CFR 1910, and other promulgated occupational health standards);
 - ii. Wearing respiratory protective equipment to include up to self-contained breathing apparatus to over 100 employees (reference 29 CFR 1910.134).
 - iii. Exposure to elevated sound levels for inclusion in a hearing conservation program to over 150 employees (reference 29 CFR 1910.95);

- iv. Medical evaluations and clearance certification to meet The State of Texas Commercial Driver's License HAZMAT endorsement requirements; and
 - v. The System's personnel protective equipment programs to over 150 employees (reference 29 CFR 1910.132-138)
- 3) Provide written physician opinions as to the ability of the employee to wear designated personal protective equipment (PPE) to include any limitations/restrictions upon the worker and the length of time that these limitations/restrictions shall be in effect. The opinions shall be provided to the employee and to the designated System's point(s) of contact (POC) to verify the employee is fit to handle the potential occupationally related stresses. The opinions and supporting documentation shall be provided to the System's POC within 24 hours of final determination.
 - 4) Provide follow-up occupational health physical examinations as established by mutually agreed procedures and when approved by the System point of contact. The System shall not be notified of any non-occupationally related medical issue discovered or disclosed during these examinations and the employee shall be informed that they should seek medical assistance from their personal medical provider. The System shall be informed when the non-occupationally related medical issue/ condition has a bearing upon the employee's ability to safely perform their assigned tasks. This shall be accomplished by informing the System of any limitations/restrictions on the employee.
 - 5) Provide medical consultation service for occupational health examinations identified by the System. This service will include meeting with System personnel on an as needed basis to discuss requirements, scheduling, and invoicing procedures.
- c. Access to medical records, records retention, and records transfer.** The respondent shall follow the requirements for access and retention as defined in 29 CFR 1910.1020 and other promulgated federal and state occupational health and injury standards and workers' compensation statutes and codes. Retention shall include all medical documentation generated pursuant to the above referenced physical and preventive health/wellness examinations for each person examined under the terms of this agreement. The retained documentation shall include:
- Employee's name, social security and/or System KRONOS number;
 - Physician's written opinions, recommended limitations and examination results;
 - All employee medical complaints related to workplace exposures; and

- A copy of the information provided by the examining physician to the employer.

For work related examination results, specifically identified System personnel shall be granted access to those portions of the medical records that pertain to occupational exposures and to the preventive health inoculations and other measures administered to the System's employees. Upon contract expiration, if the respondent is not selected to continue providing medical services, then all copies of all medical information on System employees obtained during the contract time period shall be transferred to the successor respondent.

III. Submitting a Response

a. Deadline

Interest statements are requested by August 4, 2014.

b. Submission

Your responses are preferred provided electronically and in PDF format submitted to mripley@saws.org, however hard copies are acceptable to the delivery address of:

Medical Services RFI
Care of: Marc A. Ripley
Contract Administrator
San Antonio Water System
2800 U.S. Hwy 281 North, Suite 171
San Antonio, TX 78212

c. What To Include in Your Response

Answer the following questions:

1. For which of the three listed service categories listed within this document, can you provide services?
2. If you cannot provide the complete services for a specific category, which part can you provide?
3. Would you be willing to consider collaborating with another firm to provide a partnership or team response to our needs by submitting together?
4. Do you require assistance connecting with firms that would complete your ability to respond to a future RFP?
5. Do you have an issue with providing the levels of insurance as requested within the minimum insurance requirements section of this RFI?
6. If yes, what changes might you require to be able to comply with the insurance requirements?
7. Is your firm unable to comply with the terms and conditions of the attached sample

- contract?
8. If yes, what issues do you have?
 9. Do you have any additional questions or clarifications regarding the services detailed in the Services Required sections?
 10. Would you like to be informed when an RFP for these services is actively published?

Fill Out the RESPONDENT CONTACT INFORMATION Sheet

1. Provide all information requested so we may contact you regarding a future RFP.

IV. Reservation of Rights

SAWS reserves the right to:

1. Issue a subsequent RFI;
2. Cancel the entire RFI;
3. Remedy technical errors in the RFI process;
4. Waive informalities and irregularities;
5. Request additional information or clarification.

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



RESPONDENT CONTACT INFORMATION

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. _____ Email: _____

2. **Contact Information:** List the one person who SAWS may contact concerning your Response.

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Email: _____

3. **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.

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

Does the Respondent agree to the above?

Yes No

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

ATTACHMENTS:

SAMPLE CONTRACT

**SAMPLE INSURANCE
REQUIREMENTS**

**SAN ANTONIO WATER SYSTEM
CONSULTING AGREEMENT**

AGREEMENT FOR

[INSERT PROJECT NAME]

(the "Project")

Contract No. _____

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

INSERT CONSULTANT NAME

ADDRESS 1

ADDRESS 2

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

1. Consulting.

(a) Consulting and Advisory Services. During the term of this Agreement, the Consultant will provide consulting and advisory services to the Water System in accordance with the highest professional standards. Consultant shall perform the services described on Exhibit B attached hereto and incorporated herein. The Consultant shall perform such duties in accordance with the time schedule attached hereto as Exhibit D and comply with the Security Procedures attached as Exhibit E (remove if not using Exhibit E). Acceptance of work of the Consultant by the Water System shall not constitute or be deemed a release of the responsibility, obligations or liability of the Consultant under this Agreement for any errors, omissions, defect in the design, drawings, specifications, documents, reports and work performed by the Consultant. Consultant will utilize only qualified personnel to perform the work under this Agreement. All of such work shall be under the direct supervision of properly licensed professionals as appropriate for the Project and work.

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

(c) Independent Contractor. It is acknowledged and agreed that the Consultant is an independent contractor of the Water System and not an employee or agent or

fiduciary of Water System, and each of the parties to this Agreement agrees to take actions consistent with the foregoing. Consultant is not being engaged to perform any fiduciary functions of Water System. Further, nothing in this Agreement shall be construed to create a partnership, joint venture, or other association between the parties.

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

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

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

(g) Compliance with Law. In performing this Agreement, the Consultant agrees to comply with applicable laws and regulations, and to secure, pay for and comply with all permits, governmental fees, licenses, inspections, bonds, security or deposits necessary for proper execution and completion of the services. Consultant agrees to not make or permit to be made any improper payments, or to perform any unlawful acts.

(h) Insurance. Consultant shall maintain and keep in force for the duration of this Agreement such insurance as set forth on Exhibit C of this Agreement, which is attached hereto and incorporated herein for all purposes as if fully set forth herein. Approval of insurance by the Water System shall not relieve or decrease the liability of the Consultant hereunder and shall not be construed to be a limitation of liability on the part of the Consultant. Consultant shall be responsible for all premiums, deductibles and self-insured retentions, if any, stated in the policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance. All endorsements naming the Water System and the City of San Antonio (the "City")

as additional insureds, waivers, and notices of cancellation endorsements as well as the Certificates of Insurance shall indicate: San Antonio Water System, Contract Administration Division, 2800 US Hwy 281 North, San Antonio, Texas 78212.

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

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

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

(k) Sub-consultants. The Consultant acknowledges that it is the policy of the Water System to assist in increasing the competitiveness and qualifications of Small, Minority, and Woman-owned Businesses ("SMWB") to afford greater opportunity for such groups to obtain and participate in Water System contracts. Consultant agrees to complete and submit a Good Faith Effort Plan as part of its response to the Water System's request for a proposal. Consultant shall take all reasonable steps to be in compliance with and maintain compliance with at least the minimum percentage participations for SMWB set out in Consultant's proposal to the Water System. Consultant shall be required to electronically report the actual payments to all subcontractors, whether SMWB or non-SMWB, utilizing the Subcontractor Payment and Utilization Reporting (S.P.U.R.) System, beginning with the first SAWS payment for services under the contract, and with every payment thereafter (for the duration of the contract). After Consultant receives payment from SAWS, electronic submittals will require data entry of the amount paid to each subcontractor, whether SMWB or non-SMWB, listed on the Contractor's Good Faith Effort Plan. Data entry is required even if the actual

payment amount is zero dollars and zero cents (\$0.00). This information will be utilized for subcontractor utilization tracking purposes. Any unjustified failure to comply with the committed SWMB levels may be considered breach of contract.

Electronic submittal of subcontractor payment information will be accessed through a link on SAWS' "Business Center" web page. Consultant and all subcontractors will be provided a unique log-in credential and password to access the SAWS subcontractor payment reporting system. The link may also be accessed through the following internet address: <https://saws.smwbe.com>.

Respondents and/or their agents may contact the SMWB Program Manager at 210-233-3420 for assistance or clarification with issues specifically related to the Small, Minority, and Woman-owned Business (SMWB) Program, and S.P.U.R. System reporting.

By entering into this Contract, the Water System approves the use of subcontractors and sub-consultants identified in Exhibit F (attached).

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

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

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

2. Term, Termination and Suspension.

(a) Term. The term of this Agreement shall be for the period provided in Exhibit D attached hereto and incorporated herein, beginning and ending on the dates provided in Exhibit D. In the event that Consultant has not completed the work specified on Exhibit B prior to the end of the term of this Agreement, in addition to any other remedies to which the Water System may be entitled, at law or in equity, Consultant shall pay to Water System, or the Water System may withhold from sums then due and owing the Consultant.

(b) Termination For Cause. Water System may terminate this Agreement at any time for "Cause" in accordance with the procedures provided below. Termination by Water System of this Agreement for "Cause" shall mean termination upon (i) the neglect, breach or inattention by Consultant of its duties hereunder, and such neglect, breach or inattention has not been cured within five (5) days after written notice thereof given by Water System to Consultant, (ii) the engaging by Consultant in willful or fraudulent conduct that is injurious to Water System, monetarily or otherwise, (iii) the failure by Consultant to otherwise perform its duties hereunder and such failure has not been cured within five (5) days after written notice thereof given by Water System to Consultant. Notice shall be deemed given as provided in Section 3(a) of this Agreement. Upon such termination for cause, the Consultant shall not be entitled to any further compensation under this Agreement, except for the compensation which has been earned for services rendered by Consultant in accordance with this Agreement through the date of notice of such termination, subject to offset for damages as set forth in Section 1(n) above, and which shall be paid only after final completion of the work provided for under this Agreement by the Water System.

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

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

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

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

3. Miscellaneous.

(a) Notices. Any notice, communication or request under this Agreement to any of the parties shall be in writing and shall be effectively delivered if delivered personally or sent by overnight courier service (with all fees prepaid), or by facsimile as follows:

If to Water System: San Antonio Water System
Contract Administration
2800 U.S. Hwy. 281 North
San Antonio, Texas 78212
Attn: [Insert Project Manager Name]
Email: _____

With copy to: San Antonio Water System
2800 U.S. Hwy. 281 North

San Antonio, Texas 78212
Attn: General Counsel
Email: nancy.belinsky@saws.org

If to Consultant:

(Consultant Name)
(Address)
(City, State, Zip)
Attn: (Insert Name)
Email: _____

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

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

To report suspected ethics violations impacting the San Antonio Water System, please call 1-800-687-1918.

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

(d) Tax Matters. Consultant shall be solely responsible for payment of all taxes related to Consultant's provision of the services. A tax exempt certificate is available upon request for the purchase of materials and goods only with regards to the contracted services of this Agreement.

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

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

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

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

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

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

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

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

THE WATER SYSTEM:

San Antonio Water System

By: _____

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

Date

CONSULTANT:

(Insert Consultant Name)

By: _____

Signature

Title

Date

LIST OF EXHIBITS:

- Exhibit A: Compensation for Consulting Agreement
- Exhibit B: Scope of Services
- Exhibit C: Standard Insurance Specifications
- Exhibit D: Term and Timeframe for Deliverables
- Exhibit E: Security Procedures
- Exhibit F: List of Subconsultants

EXHIBIT A
COMPENSATION FOR CONSULTING AGREEMENT
LUMP SUM PAYMENT METHOD

Section 1 - Basis of Compensation

- 1.1 Total Fee for all services defined by this contract is to be a lump sum amount of \$.00 - dollars and no cents and it is agreed and understood that this amount, when earned, will constitute full compensation to the Consultant. This amount has been approved and appropriated by the San Antonio Water System for expenditure under this agreement.
- 1.2 The Fee for all optional services, if any are authorized in writing by the Water System in connection with Exhibit B shall be a lump sum in the amount of \$.00 - dollars and no cents, including expenses, and it is agreed and understood that this amount will constitute full compensation for any optional services when authorized in writing by the President/CEO or his designated representative. This amount has been approved and appropriated by the San Antonio Water System expenditure under this contract. (Use 1.2 only if the optional services \$ value is negotiated in advance)
- 1.3 For the purpose of establishing costs to the Water System for any additional services payable on an hourly rate basis authorized in writing by the Water System, the following Hourly Billing Rate Table of the fees shall apply:

Billing Table

ITEM

HOURLY RATE

Section 2 - Changes

The Consultant and the Water System acknowledge the fact that the Lump Sum Amount contained in paragraph 1.1 above has been established on the scope of work outlined in Exhibit B. For additional services beyond the scope defined in Exhibit B or optional services set forth in section 1.2 above, compensation shall be subject to re-negotiation and/or Section 1.2 above respectively.

Section 3 - Method of Payments

Payment may be made to the Consultant based upon the following:

Lump Sum

Section 4 -Reimbursable Expenses

There are no reimbursable expenses allowed under this contract. All expenses are included in the fee set forth in section 1 above.

Section 5 - Payment for Services

- 5.1 No initial payment shall be paid to the Consultant prior to rendering services.
- 5.2 Invoices shall be submitted separately for each individual project assignment on a monthly basis to the Project Manager identified in Section 3.a.
- 5.3 For all services rendered, payment by the Water System is due within thirty (30) days after receipt of invoice. If payment of the amounts due, or any portion thereof, is not made as described above, interest on the unpaid balance thereof will accrue at the lesser rate of 6 percent per annum (0.5 percent per month) or the maximum lawful rate under Section 271.005 (c) of the Texas Local Government Code until such payment is made, unless delay in payment is due to improper invoicing procedures followed by the Consultant.
- 5.4 For all services rendered, Consultant's payment to subconsultant is due within ten calendar days after receipt of payment from the Water System.
- 5.5 For services that are to be compensated on an hourly rate basis, the Consultant's invoice shall show the name of all Consultant, employees, titles, charging time to the project, the amount of time billed, the hourly rates, and the activity or activities performed by all Consultants and employees. Payroll time sheets shall be provided on request of the Water System.
- 5.6 For services that are to be compensated on a lump sum basis, the Consultant's invoice shall include a detailed summary of the progress and completion of tasks to substantiate the percentage of completion of services as rendered during the previous month.

Section 6 - Payment for Additional Services

Payments for Consultant's additional services shall show the same information required in subparagraphs 5.2 through 5.6 dependent upon the type of compensation and other evidence of expenses.

Section 7 - Payments Withheld

The Water System may withhold, amend, or reject any request for payment by the Consultant under conditions that include those described below:

- 7.1 Consultant's failure to provide adequate documentation for reimbursable expenses.
- 7.2 Consultant's failure to invoice as required in subparagraphs 5.2 through 5.6.
- 7.4 Errors or mistakes in the Consultant's invoice and/or defects, errors and omissions in the documents prepared by the Consultant/Contractor or Consultant's sub-consultants which are the basis for the payment request.
- 7.5 Water System's receipt of evidence that the Consultant's sub-consultants have not been duly paid for their services in connection with this project subsequent to the Water System having disbursed compensation to the Consultant in consideration of and stemming from the efforts extended by the sub-consultant.

7.6 Failure of the Consultant to render any service as stipulated by this Agreement.

If any of these conditions exist, then interest charges will not be applicable. The Water System shall provide the Consultant with written notice of its intention to withhold, amend, or reject any request for payment by the Consultant. Upon written request by the Consultant to the Water System made within ten (10) days after the date of notice sent by the Water System, representatives of the Water System will meet with representatives of the Consultant at a mutually agreed time to discuss the circumstances surrounding the determination to withhold, amend, or reject any request for payment by the Consultant.

CONTRACT
EXAMPLE

**EXHIBIT B
SCOPE OF SERVICE**

CONTRACT
EXAMPLE

EXHIBIT C
SAWS STANDARD INSURANCE SPECIFICATIONS

CONTRACT
EXAMPLE

**EXHIBIT D
TIME FRAME FOR DELIVERABLES**

I. The Term of this Agreement shall commence on the ____ day of _____, 2014, and automatically expire on ____ day of _____, 2015.

*Use item I only **IF** the contract term is mentioned in the Board Resolution, then add the information and match the language used on this Exhibit.*

Time Frame for Deliverables:

CONTRACT
EXAMPLE

EXHIBIT E SECURITY PROCEDURES

If work will be conducted on SAWS property, on a SAWS customer's property, involve any SAWS networks or any SAWS facility the Contractor shall ensure a Prime Contractor Data Form (PCDF) and a Background Screening Letter (provided by SAWS Security) is properly completed for all employees performing work under this Agreement and is on file with SAWS Security prior to work commencement. Any person found to have an unacceptable background check will not be allowed to perform work under this Agreement (A waiver may be given by SAWS Security for an unacceptable finding but must be signed off by the Director of SAWS Security). Sub-Contractors performing work must be listed on the PCDF and the Background Screening Letter. Contractor shall be responsible for the accuracy of information on the PCDF and the Background Screening Letter, and for obtaining any and all required items (badges and parking tags) necessary to fulfilling the work under this Agreement. The PCDF and Background Screening Letter must be sent electronically to securitygroup@saws.org. Contractor shall advise the SAWS Project Manager/Inspector of any employee terminations or changes to personnel performing work under this Agreement and the Contractor shall immediately turn in any and all badges and/or parking tags of employees who are terminated or no longer performing work under this Agreement. If there are any changes in the information contained in the PCDF or the Background Screening Letters, Contractor shall immediately notify the SAWS Project Manager/Inspector and provide updated PCDF and Background Screening Letters, with copies to securitygroup@saws.org.

Contractor, its employees, and agents shall obtain a SAWS photo identification badge (Contractor's Badge) and parking tag, prior to any work on SAWS property, which shall be used only for purposes necessary to perform the work under this Agreement. SAWS Badge Office hours are Monday, Wednesday and Friday 8:00am to 12:00pm excluding SAWS holidays (hours are subject to change). Security staff can be contacted at (210) 233-3177 or (210) 233-3338. A replacement fee may be charged for lost or damaged badges or parking tags. As a condition of final payment, Contractor shall return all badges and parking tags to the Security Office. In the event Contractor fails to return all security badges and parking tags, in addition to any other rights or remedies to which SAWS may be entitled at law or in equity, SAWS may withhold from payment to the Contractor the sum of \$500.00 dollars per badge or parking tag as liquidated damages. Contractor agrees that the actual amount of damages for failure to return the badges and/or parking tags are difficult to determine, and the liquidated damages herein are not a penalty, but are a reasonable estimate of the costs and expenses that may be incurred by SAWS for failure to return the badges or parking tags.

SAWS facilities require a SAWS employee to physically escort Contractor at all times. SAWS may, in its sole discretion, waive the escort requirements if the PCDF and a "clean" Background Screening Letter, signed by an authorized representative of Contractor are approved by SAWS Security.

Sub-Contractors must always be under escort of the Contractor while performing work on any SAWS property. Sub-Contractors must display either a company photo badge, with name, or a valid driver's license at all times while working on any SAWS property. Contractor is solely responsible for the actions of its employees, agents, sub contractors and Contractors.

Contractor **MUST** be prepared for additional security requirements at its expense if violations of SAWS Security procedures are noted. Some examples of additional requirements include hiring of SAWS approved security guards, temporary fencing, mobile Closed Circuit Television Monitoring trailer(s), or extra lighting. Notwithstanding anything herein to the contrary, any provisions in these Security Procedures that may appear to give SAWS the right to direct Contractor as to details of doing any work under this Agreement or to exercise a measure of control over any security measures or such work shall be deemed to mean that Contractor shall follow the desires of SAWS in the **results** of the work or security measures only.

Advance coordination by Contractor with SAWS Security for these security requirements is necessary to ensure no delays with timely performance of the work. In the event Contractor fails to comply with SAWS Security requirements, SAWS may, with no penalty or claim against SAWS:

- Issue a Work Stoppage Order until the security violation (s) are remedied
- Ask any unidentified or improperly identified person or equipment to leave SAWS site immediately and not return until items are remedied.

EXHIBIT F
LIST OF SUBCONSULTANTS

(Add to list of attachments on page 9 of 9 if used.)

CONTRACT
EXAMPLE

Exhibit "A"
SAWS STANDARD INSURANCE SPECIFICATIONS & CERTIFICATE OF LIABILITY INSURANCE
REQUIREMENTS

1. Commercial Insurance Specifications ("Specifications"):

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

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

This **line of insurance coverage** shall be endorsed to provide a **Waiver of Subrogation** in favor of SAWS and the City with respect to both this insurance coverage and the **Employers' Liability (EL)** insurance (as specified immediately below in section 1.a.2)).

- 2) **Employers' Liability (EL)** insurance (**Part 2** under the standard Workers' Compensation insurance policy) that will protect the Medical Services & Treatment provider, SAWS and the City for damages because of bodily injury, sickness, disease of vendor's employees apart from that imposed by Workers' Compensation laws.

The **EL** line of insurance coverage shall have minimum policy limits of liability of not less than:

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

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

This line of insurance coverage shall:

- Cover sub contracted Medical Services providers and other sub-contracted medical entities.
- Afford coverage for Products Liability and/or Completed Operations and, Contractual Liability.

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

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

This line of insurance coverage shall be endorsed:

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

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

This line of insurance coverage shall be endorsed:

- Naming SAWS, and the City as an **Additional Insured**; and
 - To provide a **Waiver of Subrogation** in favor of SAWS and the City.
- 5) **Professional Liability (PL)** (errors and omissions), includes medical malpractice, insurance with minimum coverage limits of \$5,000,000 per claim, \$5,000,000 in the aggregate **and**, if this line of coverage is written on a "Claims Made" form, the Medical Services & Treatment provider must maintain this line of insurance coverage for a period of at least twenty-four (24) months after the date of Contract termination. Other Medical Services providers and other sub-contracted medical entities must be covered with minimum coverage limits of \$1,000,000 per claim, \$1,000,000 in the aggregate..

NOTE - For Professional Liability, includes medical malpractice, include in writing on the **Certificate of Liability Insurance** ("Certificate") the coverage form under which the respective line of coverage is written – either:

- **Claims-made form**; if the coverage form declared on the Certificate is the Claims-made form, the "**Retroactive-date**" for this line of coverage must also be included on the Certificate as well; **or**
 - **Occurrence basis** – no additional wording required.
- b. Medical Services & Treatment provider shall require all sub-contracted entities to carry lines of insurance coverage appropriate to their Scope of Work and submit copies of Medical Services & Treatment provider's sub-contracted entity Certificates of Liability Insurance upon request by SAWS.
- c. Medical Services & Treatment provider agrees that with respect to the above required lines of insurance, all insurance policies are to contain or be endorsed to the extent, not inconsistent with the requirements of the issuing insurance carrier, to provide for an endorsement that the "other insurance" clause shall not apply where SAWS and the CITY are an Additional Insured shown on the policy if such endorsement is permitted by law and regulations.
- d. Medical Services & Treatment provider shall, upon request of SAWS, provide copies of all insurance policies and endorsements required under Contract.
- e. Medical Services & Treatment provider is responsible for the deductibles under all lines of insurance coverage required by these Specifications.
- f. The stated policy limits of each line of insurance coverage required by these Specifications are MINIMUM ONLY and it shall be the Medical Services & Treatment provider's responsibility to determine what policy limits are adequate and the length of time each line of insurance coverage shall be maintained; insurance policy limits are not a limit of the Medical Services & Treatment provider's liability.

- g. These minimum limits required of each line of insurance coverage may be either basic policy limits of the WC, EL, CGL and AL or any combination of basic limits or umbrella (Umbrella form) or excess (Other Than Umbrella form) limits. SAWS acceptance of Certificate(s) that in any respect, do not comply with these Specifications, does not release the Medical Services & Treatment provider from compliance herewith.
- h. Each line of insurance coverage that is specified under these Requirements shall be so written so as to provide SAWS and the City thirty (30) calendar days advance written notice directly of cancellation or non-renewal of coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- i. Within five (5) calendar days of cancellation or non-renewal of any required line of insurance coverage, the Medical Services & Treatment provider shall provide SAWS a replacement Certificate with all applicable endorsements included. SAWS shall have the option to suspend the Medical Services & Treatment provider's performance should there be a lapse in coverage at any time during this Contract.
- j. Failure to provide and to maintain the required lines of insurance coverage shall constitute a material breach of this contract.
- k. In addition to any other remedies, SAWS may have, upon the Medical Services & Treatment provider failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, SAWS shall have the right to order the Medical Services & Treatment provider to stop performing services hereunder and/or withhold any payment(s) which become due to the Medical Services & Treatment provider hereunder until the Medical Services & Treatment provider demonstrates compliance with the Specifications hereof.
- l. Nothing herein contained shall be construed as limiting, in any way, the extent to which the Medical Services & Treatment provider may be held responsible for payments for damages to persons or property resulting from the Medical Services & Treatment provider's or its sub-consultant's performance of the services covered under this Contract.
- m. It is agreed that the Medical Services & Treatment provider's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by SAWS, the City and their employees and agents for liability arising out of operations under this Contract.
- n. Medical Services & Treatment provider agrees that all lines of insurance coverage required by these Specifications shall be with insurance companies, firms or entities that have an **A.M. Best** rating of "**A- (A- minus)**" and a **Financial Size Category** of a "**VII**" or better. All lines of insurance coverage shall be of an "Occurrence" type except for the Professional Liability line of insurance coverage.

SAWS will accept worker's compensation insurance coverage written by the Texas Workers Compensation Insurance Fund.
- o. SAWS reserves the right to review the above stated insurance specifications during the effective period of this Contract and any extension or renewal hereof and to request modification of lines of insurance coverage and their respective liability limits when deemed necessary and prudent by SAWS' Risk Manager and Legal Department based upon changes in statutory law, court decisions, or circumstances surrounding this Contract.

In no instance will SAWS and the City allow modification whereupon SAWS and the City may incur increased risk exposure.

2. Certificate(s) of Liability Insurance ("Certificate") Requirements

Prior to the commencement of any Services under this Contract and once notified by SAWS Contracting Official that your Company has been selected as the apparent successful Medical Services & Treatment provider pursuant to a Request for Proposal selection process, pending Board final approval, and, a request is made for you to submit your Company's Certificate of Liability Insurance, that Certificate must meet all of

the following requirements:

- a. The Medical Services & Treatment provider shall have completed by its insurance agent(s), and submitted to SAWS Contracting Department within 5 business days, a **Certificate(s) of Liability Insurance** ("Certificate(s)") providing evidence of the lines of insurance coverage pursuant to Section 1.a.1) through 1.a.5) above.
- b. The original Certificate(s) or form must include the agent's original signature, including the signer's company affiliation, mailing address, Office and FAX phone numbers, email address, and contact person's name; and, be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative in strictly compliance with sections 2.g. (**Certificate Holder**) and 2.h. (**Distribution of Completed Certificates**) below.
- c. The Texas Legislature passed and Governor Perry signed Senate Bill 425 to become effective January 1, 2012. This law will require all certificates of insurance forms to be filed with and approved by the Texas Department of Insurance before they can be used after the effective date of the law. In addition, the law codifies current Texas Department of Insurance rules that a certificate of insurance must not obscure or misrepresent the coverage provided by the insurance policies.
- d. SAWS will not accept Memorandum of Insurance or Binders as proof of insurance.
- e. SAWS shall have no duty to pay or perform under the Medical Services & Treatment provider Agreement until such certificate(s) and applicable endorsements have been received, reviewed and deemed 100% compliant with the Insurance Specifications contained herein by SAWS' Risk Management/Contract Services Department. No one other than SAWS Risk Manager shall have authority to waive any part of these requirements.
- f. The SAWS Project/Contract number(s) along with its Descriptor Caption **must be included** in the Description of Operations section located in the bottom half of the standard ACORD Certificate forms.
- g. **Certificate Holder** - SAWS shall be shown as the Certificate Holder in the Certificate Holder section located in the bottom half of the standard ACORD Certificate forms and formatted as follows:

**San Antonio Water System
c/o Ebix BPO
PO Box 257
Ref. # 107-(Lawson Acct's Payable Vendor #)-(SAWS Contract/Project #)*
Portland, MI 48875-0257**

**SAWS Contracting Official will include in the above address, the correct, complete Ref# in the written confirmation of your selection as the Medical Services & Treatment provider pending final Board approval.*

DO NOT BEGIN THE DISTRIBUTION OF ANY CERTIFICATE(S) BEFORE RECEIVING AND INSERTING THE COMPLETE REFERENCE NUMBER INTO THE CERTIFICATE HOLDER ADDRESS SHOWN ABOVE.

- h. **Distribution of Completed Certificates** - Completed **Certificates** shall be distributed by the Consultant as follows:

1) Send Original:

a) By **Mail**:

San Antonio Water System
C/O Ebix BPO
P.O. Box 257
Ref. #107-(Same as the Certificate Holder name/address shown above.)

Portland, MI 48875-0257

b) By **Fax**: 1-517-647-7900

c) By **E-Mail**: CertsOnly-Portland@Ebix.com

2) Send Copy to the following:

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

i. Medical Services & Treatment provider shall be responsible for obtaining Certificates of Insurance from the sub-contracted entity, and upon request furnish copies to SAWS.

3. SURVIVAL

Any and all representations, conditions and warranties made by Consultant under this Contract including, without limitation, the provisions of Section 1.a.2), 1.a.3) and 1.a.4) of these **Commercial Insurance Specifications and Certificates of Liability Insurance Requirements** are of the essence of this Contract and shall survive the execution and delivery of it, and all statements contained in any document required by SAWS whether delivered at the time of the execution, or at a later date, shall constitute representations and warranties hereunder.

INSURANCE
EXAMPLE