



SOLICITATION NO: R-17-002-PC
INFORMAL REQUEST FOR
PROPOSALS
Release Date: January 3, 2017

CANDIDATE SEARCH SERVICES - INTERNAL AUDITOR POSITION

****ELECTRONIC SUBMISSIONS ONLY****

Please return by January 18, 2017 @ 2:00 PM Central Time to: contracting@saws.org

I. PROJECT INFORMATION

a. OBJECTIVE

The San Antonio Water System (SAWS) is pursuing the assistance of a qualified recruiting firm to provide candidate search services for an Internal Auditor through Senior Internal Auditor position (depending on the candidate's experience) in accordance with the terms, conditions, and specifications of this RFP.

b. BACKGROUND

SAWS is a public utility owned by the City of San Antonio. It is the largest municipally-owned water, wastewater, chilled water, and recycled water utility in Texas. SAWS provides service to approximately 400,000 accounts in the City and Bexar County which totals approximately 1.7 million residents. The System has approximately \$4.4 billion in assets and \$440 million in annual revenues. The System employs approximately 1,700 personnel and maintains more than 10,000 miles of water and sewer mains.

SAWS is pursuing a recruiting firm to conduct the search for an Internal Auditor through Senior Internal Auditor (depending on the candidate's experience) and is accepting Proposals from firms to conduct a search of qualified candidates meeting the job specification for the position and work with designated management of SAWS and the selected candidates until such time that an offer of employment is tendered and accepted.

c. POSITION DETAILS: DESCRIPTION

The Internal Audit Department consists of a Chief Internal Auditor, an Internal Audit Manager, and two Internal Audit positions. The Chief Internal Auditor reports to the SAWS Board of Trustees with an internal reporting to the SAWS President/CEO. The two Auditor positions report to the Internal Audit Manager.

The Internal Auditors are responsible for planning and conducting complex financial, operational and compliance audits from inception to completion in accordance with generally accepted auditing standards, practices, and procedures. This position also performs consulting projects as requested by management and participates in the development of the SAWS' Annual Risk Assessment.

d. SCOPE OF SERVICE

The selected firm shall provide the following services:

- i. Consultant shall, in consultation with SAWS management, garner a clear understanding of the job specifications, minimum requirements, preferred requirements and expectations of the selected candidate and then will use all available resources to conduct a national search to recruit candidates qualified for and interested in the position requested.
- ii. The Consultant agrees to perform those services necessary as determined by industry best practices to act on SAWS' behalf regarding the location of a suitable candidate for the Internal Auditor position.
- iii. Consultant shall pre-qualify all candidates by conducting a thorough interview to verify the qualification of the candidates and prepare a written summary of the findings of the prequalification interview, listing the strengths and weaknesses of each candidate as they relate to the job specifications, minimum requirements and preferred qualifications for the position.
- iv. Consultant shall conduct reference checks with candidates submitted for consideration.
- v. Consultant shall present an initial list of candidates with resume, and written summary ("Candidate Summary") of each candidate's qualifications. The Candidate Summary shall include Consultant's personal insights of the candidate, the reasons why the candidate is looking for employment, bullets reflecting candidate strengths and weaknesses, last/current compensation, and any other specific information requested by the SAWS.
- vi. Consultant will endeavor to provide SAWS with a diverse list of candidates for the Internal Auditor through Senior Internal Auditor position (depending on the candidate's experience).
- vii. Consultant shall work with SAWS management by notifying all candidates of the status of their application as required and shall, at the end of the selection process, notify all candidates who have not been selected to proceed to an interview, of such status.
- viii. Consultant shall notify each interviewed candidate of the status of their face-to-face interview and assist SAWS management in tendering an offer to the selected candidate and obtaining acceptance of the Offer of Employment.
- ix. Consultant shall provide a Candidate Summary and list of no less than four (4) candidates meeting the qualifications of SAWS within thirty (30) days after the date of the negotiated agreement.
- x. All material and non-clerical portions of the services of the Consultant shall be personally performed by (selected Consultant).

e. ADDITIONAL REQUIREMENTS

- i. Preference will be given to submitting firms who have performed similar services in recruiting Internal Audit positions in the past five (5) years. References should be included in the proposal.
- ii. Proposals which exceed the negotiated scope of services budget may be rejected. This budget is not expected to exceed twenty five thousand dollars.

II. SELECTION PROCESS

a. Selection

SAWS will review, evaluate, and rank the proposals according to a numerical scoring system based on the responses to the criteria listed below. Those firms with proposals deemed most beneficial to SAWS will enter into negotiations for a contract to perform the services detailed in this RFP.

b. Summary of Evaluation Criteria

- Team Capability and Project Understanding 35 Points
- Plan for performance of Scope 35 Points
- Price Proposal 15 Points
- Small, Minority and Woman Business Participation 15 Points
- Total Points / Percentage 100 points

c. Clarification of Submittals

SAWS reserves the right to contact any respondent should clarification be required after responses are opened. SAWS also reserves the right to further negotiate with any respondent when it is deemed necessary by SAWS.

III. SUBMITTING A RESPONSE - ***Electronic Submittals Accepted Only***

a. Deadline – **Proposals are due no later than Friday, January 18, 2017 at 2:00 PM Central time.**

b. Submission

Please address a PDF of your submittal to contracting@saws.org. Entitle the subject line of the submission email with “R-17-002-PC Proposal Response” and then the name of your firm. If any hard copy proposals are submitted in error, they will not be evaluated for consideration. The file size limitation for submission is 10MB. Only one (1) file with all required response information shall be submitted. A brief e-mail response will be provided to acknowledge receipt of your submission. Pages requiring signatures shall be scanned or electronically signed. The submission shall be tabbed/”bookmarked” in PDF to match the response format indicated further in this solicitation. The entire submission shall be in a searchable PDF format.

c. Response Format:

The response shall be organized as follows and each section shall be titled accordingly.

i. Statement of Team Capability and Understanding of the Project

1. Provide a brief description of your firm and its history providing the scope of services.
2. Detail how your firm has the unique abilities to provide the services per the supplied scope.
3. Provide a team organization chart.
4. Identify and provide a resume for the principal team member who will conduct the search, to include expertise directly related to the scope of services.
5. Demonstrate similar prior experience.
6. Provide no less than three references.

ii. Plan for Performance of Scope

1. Describe what steps, tools, and methods you will employ to assist SAWS achieve its goals.
2. Describe and demonstrate your firm’s ability to perform the scope of services in a timely manner.

3. Detail how you have quickly performed similar services in the past.

iii. Price Proposal

1. Provide a fee schedule including the Respondent's proposed fees or rates for services. Respondents are encouraged to submit alternative fee proposals with prices or rates (both inclusive and not inclusive of reimbursable expenses) that may be customary in the industry or otherwise acceptable, for example a lump sum (e.g., as a percentage of starting compensation or otherwise), an hourly fee for service with ceiling, cost plus a percentage, etc. If the fee is expressed as a percentage of the candidate's starting compensation each Respondent must include a comprehensive and exclusive list of all elements of compensation against which the percentage will be applied.
2. Provide a separate cost schedule itemizing reimbursable expenses not included in the fee schedule, and an estimate and proposed ceiling amount for each item of expense.
3. Indicate what fees and expenses would be reimbursed to SAWS should a candidate hired as a result of Respondent's recruitment efforts resign within one year from his or her date of employment.

iv. SMWB Participation

Use Exhibit "B" to indicate if your firm is a Small, Minority or Woman-owned business enterprise and identify any sub-consultants that you may be using for this candidate search service.

d. Proof of Insurability: Exhibit "A"

- i. Respondent shall submit a copy of their current insurance certificate.
- ii. Submit a letter from insurance provider stating provider's commitment to insure the Respondent for the types of coverage listed and at the levels specified in Exhibit "A" if awarded a contract under this RFP.

IV. Contract Requirements after award:

- a. Certificates of Insurance must be submitted with the signed contract returned to SAWS. The certificates of insurance must meet the insurance requirements outlined in Exhibit "A" – "Insurance Specifications" attached to the contract. The certificates of insurance must include the contract number, the name of the project, and the job number.
- b. A "Corporate Authorization Resolution" listing by name or position the individuals authorized to contractually bind the company must accompany the signed contract returned to SAWS.

V. RESERVATION OF RIGHTS SAWS reserves the right to:

- Reject any and all Proposals received
- Issue a subsequent RFP
- Cancel the entire RFP
- Remedy technical errors in the RFP process
- Negotiate with any, all, or none of the Respondents to the RFP
- Waive informalities and irregularities
- Accept multiple Proposals
- Make multiple recommendation(s) to staff
- Request additional information or clarification

a. OWNERSHIP OF PROPOSALS

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

b. NO REIMBURSEMENT FOR PROPOSALS

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

c. NO GUARANTEE OF CONTRACT

This RFP 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.

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 CONSULTANT shall, at his own expense, purchase, maintain and keep in force such lines of insurance coverage as will protect him 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-consultant, 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) **Commercial General Liability (CGL)** insurance that will protect the CONSULTANT, SAWS and the City from claims for damages because of bodily injury, personal injury, sickness, disease or death and insurance that will protect the CONSULTANT, 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 independent contractors;
- 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:

\$ 500,000.00 Occurrence Limit
1,000,000.00 General Aggregate
500,000.00 Personal and Advertising Injury
500,000.00 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.

- 2) **Professional Liability (PL)** (errors and omissions) insurance with minimum coverage limits of \$300,000 per claim, \$300,000 in the aggregate and, if this line of coverage is written on a "Claims Made" form, the CONSULTANT must maintain this line of insurance coverage for a period of at least twenty-four (24) months after the date of Contract termination.

NOTE - For Professional Liability, 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 "Retro-date" for this line of coverage must also be included on the Certificate as well; or
- Occurrence basis – no additional wording required.

b. CONSULTANT shall require all Sub-consultant's to carry lines of insurance coverage appropriate

to their scope of Work and submit copies of Sub-consultants' Certificates of Liability Insurance upon request by SAWS.

- c. CONSULTANT 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. CONSULTANT shall, upon request of SAWS, provide copies of all insurance policies and endorsements required under Contract.
- e. CONSULTANT 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 CONSULTANT'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 CONSULTANT's liability.
- g. These minimum limits required of each line of insurance coverage may be either basic policy limits of the CGL and 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 CONSULTANT from compliance herewith.
- h. Within five (5) calendar days of a suspension, cancellation or non-renewal of any required line of insurance coverage, the CONSULTANT shall provide SAWS a replacement Certificate with all applicable endorsements included. SAWS shall have the option to suspend the CONSULTANT's performance should there be a lapse in coverage at any time during this Contract.
- i. Each line of insurance coverage that is required under these Specifications shall be so written so as to provide SAWS and the City thirty (30) calendar days advance written notice directly of any suspension, cancellation or non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- 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 CONSULTANT's 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 CONSULTANT to stop performing services hereunder and/or withhold any payment(s) which become due to the CONSULTANT hereunder until the CONSULTANT demonstrates compliance with the Specifications hereof.
- l. Nothing herein contained shall be construed as limiting, in any way, the extent to which the CONSULTANT may be held responsible for payments for damages to persons or property resulting from the CONSULTANT 's or its sub-consultant's performance of the services covered under this Contract.
- m. It is agreed that the CONSULTANT'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. CONSULTANT 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 CONSULTANT pursuant to an Informal 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 CONSULTANT 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. SAWS will not accept Memorandum of Insurance or Binders as proof of insurance.
- d. SAWS shall have no duty to pay or perform under Consulting Services Agreement until such certificate(s) and applicable endorsements have been received, reviewed and deemed 100% compliant with the RFP Insurance Specifications by SAWS' Risk Management/Contract Services Department. No one other than SAWS Risk Manager shall have authority to waive any part of these requirements.
- e. 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.
- f. 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 12085-ZD
Ref. # 9895-N-17-001-PC
Duluth, GA 30096

- g. 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 12085-ZD
Ref. # 9895-N-17-001-PC
Duluth, GA 30096

b) By Fax: 1-770-325-6502

c) By E-Mail: saws@Ebix.com

d) To Upload Online: <http://www.ebixcerts.com> (*preferred method*)

2) Send Copy to the following:

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

- h. CONSULTANT shall be responsible for obtaining Certificates of Insurance from the first tier Sub-consultant, 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.1) 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.



EXHIBIT "B"

GOOD FAITH EFFORT PLAN FOR
PROFESSIONAL AND OTHER CONSULTING SERVICES
SUB-CONTRACTS

FOR
NAME OF PROJECT: Candidate Search Services –Internal Auditor

SECTION A - PROPOSER INFORMATION:

Name of Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact Person: _____ Telephone: _____

Email Address: _____ Fax: _____

Is your firm Certified: Yes _____ No: _____ If certified, Certification Number: _____

Type of Certification: _____ SBE _____ WBE _____ MBE

Prime's Percent Participation on this Project _____ %

1. List ALL SUBCONTRACTORS/SUPPLIERS that will be utilized on this project/contract.

	Name & Address of Company	Scope of Work/Supplies to be Performed/Provided by Firm	% Level of Participation on this Project	If Firm is Certified, attach copy of Certification Affidavit
1.				
2.				
3.				
4.				

AFFIRMATION

I hereby affirm that the above information is true and complete to the best of my knowledge. I further understand and agree that, this document shall be attached thereto and become a binding part of the contract.

Name and Title of Authorized Official:

Name: _____

Title: _____

Signature: _____ Date: _____

DEFINITIONS:

Prime Consultant/Contractor: Any person, firm partnership, corporation, association or joint venture which has been awarded a San Antonio Water System contract.

Subconsultants/subcontractor: Any named person, firm partnership, corporation, association or joint venture identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing under contract with a prime consultant/contractor on a San Antonio Water System contract.

Small, Minority and Woman Business (SMWB): All business structures Certified by the Small Business Administration, Texas State Comptroller's Office, or the South Central Texas Regional Certification Agency that are 51% owned, operated, and controlled by a Small Business Enterprise, a Minority Business Enterprise, or a Woman-owned Business Enterprise.

Small Business Enterprise (SBE): A business structure that is Certified by the Small Business Administration, Texas State Comptroller's Office or the South Central Texas Regional Certification Agency as being 51% owned, operated and controlled by someone who is legally residing in or a citizen of the United States, and the business structure meets the U.S. Small Business Administration's (SBA) size standard for a small business within the appropriate industry category

Minority Business Enterprise (MBE): A business structure that is certified by the Small Business Administration, Texas State Comptroller's Office or the South Central Texas Regional Certification Agency as being 51% owned, operated, and controlled by an ethnic minority group member(s) who is legally residing in or a citizen of the United States. For purposes of the SMWB program, the following are recognized as minority groups:

- a. **African American** – Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian or West Indian.
- b. **Hispanic American** – persons of Mexican, Puerto Rican, Cuban, Spanish or Central or South American origin.
- c. **Asian-Pacific American** – persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- d. **Asian-Indian American** – persons whose origins are from India, Pakistan, Bangladesh or Sri Lanka.
- e. **American Indian/Native American** – persons having no less than 1/16 percentage origin in any of the American Indian Tribes, as recognized by the U.S. Department of the Interior's Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

Women Business Enterprise (WBE): A business structure that is Certified by the Small Business Administration, Texas State Comptroller's Office or the South Central Texas Regional Certification Agency as being 51% owned, operated and controlled by a woman or women who are legally residing in or citizens of the United States.

African American Business Enterprise (AABE): A business structure that is Certified by the Small Business Administration, Texas State Comptroller's Office or the South Central Texas Regional Certification Agency as being 51% owned, operated and controlled by African American minority group member(s) who are legally residing in or are citizens of the United States.

Joint Venture: A limited association of two or more persons to carry out a single business enterprise for profit, for which purpose they combine their property, money, efforts, skills and knowledge.

**Exhibit “C”
Draft Contract**

**SAN ANTONIO WATER SYSTEM
CONSULTING AGREEMENT**

AGREEMENT FOR

Candidate Search Services – Internal Auditor
(the “Project”)

Contract No. N-17-001-PC

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

(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. 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 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.

(k) 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.

(l) 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. In the event that Consultant enters any sub-consultant agreements in connection with this Agreement, Consultant agrees 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.

(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 as a result of Consultants' actions, 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 sub-consultant 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.

(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) 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 email as follows:

If to Water System: San Antonio Water System
2800 US Hwy 281 North
San Antonio, Texas 78212
Attn: Stacey Isenberg, Chief of Internal Audit
Email: stacey.isenberg@saws.org

With copy to: San Antonio Water System
2800 US Hwy 281 North
San Antonio, Texas 78212
Attn: Nancy Belinsky, Vice President / General Counsel
Email: nancy.belinsky@saws.org

or to Consultant:

Attn:
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.

(c) Gift Policy. Water System employees are prohibited from soliciting, accepting or agreeing to accept any gifts from outside sources; please see Section M. – Gifts or Benefits of the Water System’s Code of Ethical Standards. Section M of the Water System’s Code of Ethical Standards regarding Gifts or Benefits is available on the SAWS Business Center website.

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

(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 X, X, X and X, 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:

xxxxxxxxxxxxxxxxxxxxxxxxxxxx

By: _____
Signature

Title

Date