

REQUEST FOR PROPOSALS AND QUALIFICATIONS

The City of Seguin is soliciting qualifications from **Texas registered** engineers to provide basic and special engineering services. The City of Seguin received a Transportation Enhancement Grant award from the Texas Department of Transportation to construct a hike and bike trail from Court Street (Hwy 90) to FM 78. The project number is **CSJ#0915-46039**. Accordingly, the City is seeking to contract with a qualified Texas registered engineer for basic and special engineering services. Proposals and qualifications for these services will be accepted until **2:30 p.m.** Central Standard Time on **November 29, 2011**, at the City of Seguin Municipal Building located at 205 N. River, P.O. Box 591, Seguin, Texas 78155. Selections will be based on experience, capacity to perform, and performance program implementation. Expected contract duration is 2 years. We reserve the right to negotiate with all firms submitting proposals or qualifications per the Texas Professional Services Procurement Act and UGCMS, and to reject any or all submittals. Additional submission requirements for each service and copies of the RFQ are available by contacting the City of Seguin Purchasing Department. Affirmative Action/EOE.

DOUGLAS G. FASELER
CITY OF SEGUIN

NOTICE OF INTENT TO CONTRACT
Request for Proposal—Private Engineering Services

Request for Proposal - Private Consultant Services: The City of Seguin announces a Request for Proposal (RFP) for private engineering services pursuant to the Texas Department of Transportation, Government Code, Chapter 2254, Subchapter A. Request for Proposal is to provide the following services for Contract **CSJ #0915-46-039**. The RFP will be released on **October 28, 2011**.

Program Goal: The design of a Hike and Bike Trail from Court Street (Hwy 90) to FM 78.

Project Description: To design a trail that will provide links to schools, businesses, restaurants, shops, historic attractions, recreations sites and other facilities and sites in Seguin including the downtown Historic Commercial District. The construction of the hike and bike trail along Walnut Branch will serve as a transportation corridor for pedestrians and bicyclists in Seguin.

Proposed Contract Duration: Length of contract shall be approximately two (2) years. The contract may be extended no more than 4 times for periods of 6 months each. Proposals may vary from these guidelines by no more than 30 percent.

Eligible Applicants: Eligible applicants include, but are not limited to, organizations that provide private engineering services.

Review and Award Criteria: The City of Seguin intends to select a Firm that demonstrates in the City's opinion, the highest degree of technical merit. With that Firm, the City of Seguin will negotiate the technical aspects of the scope of work, deliveries, schedule, and fee. However, if a negotiated agreement cannot be reached, the City of Seguin may open negotiations with the Firm that demonstrates the next highest degree of technical merit.

Response to the RFP will be evaluated in accordance with:

- A. Compliance with Instructions.** The submittal will be evaluated for general compliance with instructions issued in the RFP. A non-compliance with significant instructions may be grounds for submittal disqualification.
- B. Staff Qualifications.** The submittal will be evaluated on the basis of the Firm's demonstration of staff qualifications. Team must demonstrate that a professional engineer licensed/registered in Texas will sign/seal work.
- C. Experience with similar projects.** The submittal will be evaluated on the basis of project experience that is of the similar technical nature and complexity for cities that are similar in size and type to the City of Seguin.
- D. Schedule and Availability.** The project schedule and resource availability will be evaluated in the choice of a Firm, although the City of Seguin understands that the actual beginning and completion dates are subject to the notice to proceed.

E. Project Approach. The City of Seguin is interested in the team's understanding of the project issues and their approach to the project. Identify project leadership, reporting responsibilities and how the firm will interact with the project manager. Describe any significant project issues, and the team's approach in addressing those issues.

Contact: Capital Projects/Engineering for the City of Seguin will administer the contract resulting from this RFP. The contract administrator is **Jose (Joe) R. Ramos, Jr., P.E., City Engineer, 205 N. River, Seguin, Texas 78155. Office: 830.401.2437, Fax: 830.401.2499; Email: jramos@seguintexas.gov.** If additional information is necessary to assist the Proposer in interpreting these specifications, written questions will be accepted by Willa Hagemann, Assistant Director of Finance/Purchasing Manager, 830-401-2453, FAX 830-401-2414, whagemann@seguintexas.gov, reference: CSJ 0915-46-039 Seguin Walnut Branch Linear Park Hike and Bike Trail. Written questions must be received no later than November 9, 2011 at 3:00 p.m. Central Standard Time (CST).

Disadvantage Business Enterprise. The goal for Disadvantage Business Enterprise (DBE) is 10% to allow all proposers the opportunity to compete fairly for contracts.

Deadline: The City of Seguin must receive proposals prepared according to instructions in the RFP package at or before **4:00 p.m., November 30, 2011**, Central Standard Time. Proposal must be delivered and addressed as follows:

VIA USPS

City Manager
City of Seguin
P O Box 591
Seguin, Texas 78156-0591

VIA COURIER OR OVERNIGHT DELIVERY

City Manager
City of Seguin
205 N. River
Seguin, Texas 78155

To obtain a Copy of the RFP: Requests for a copy of the RFP should be submitted to the City of Seguin, P.O. Box 591, 205 N. River, Seguin, Texas 78155. Copies are also be available on the City of Seguin's web page at: www.seguintexas.gov

**CITY
OF
SEGUIN, TEXAS**



**REQUEST FOR QUALIFICATIONS
AND PROPOSALS**

**CSJ 0915-46-0393
WALNUT BRANCH LINEAR PARK HIKE AND BIKE TRAIL**

RFQ #24-2012-07

October 28, 2011

Prepared by
City of Seguin
Capital Projects/Engineering Department
and
Purchasing Department

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1. GENERAL INFORMATION

This procurement is made under Texas Department of Transportation (TxDOT) Government Code, Chapter 2254, Subchapter A. **CSJ #0915-46-039**

1.1 Background

In 2010, the City of Seguin and the Army Corps of Engineers provided funding for the Walnut Springs Linear Park Project – Phase I. Phase I included the rehabilitation of a portion of Walnut Branch between Court Street and Nolte Street in Seguin, Texas to include walking trails, bench seating and a bridge spanning Walnut Branch (courtesy of the Lower Colorado River Authority (LCRA)). Phase I was completed in August 2011. Recognizing an opportunity to expand on the amenities of the Phase I project, the City applied and was granted funding through the Texas Department of Transportation (TxDOT), Transportation Enhancement Program to provide a Hike and Bike Trail from Court Street (US 90A) north to Hwy 78. The purpose of this Transportation Enhancement Project is to construct a trail that will provide links to school, businesses, restaurants, shops, historic attractions, recreation sites and other facilities and sites in Seguin including downtown Historic Commercial District. The construction of the hike and bike trail along Walnut Branch will serve as a transportation corridor for pedestrians and bicyclists in Seguin.

1.2 Quantity

The Department anticipates selecting one (1) private firm to provide the engineering design.

1.3 Regulations

All work must be performed in compliance with applicable federal and state regulations.

1.4 Consulting Contracts - Prohibition on Follow-On Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

1.5 Procuring and Contracting Agency

1.5.1 Point of Contact

The City of Seguin issues this Request for Proposal (RFP) and is the sole point of contact for the Texas Department of Transportation during the selection process.

1.5.2 Contract Administration

Capital Projects/Engineering for the City of Seguin will administer the contract resulting from this RFP. The contract administrator is **Jose (Joe) R. Ramos, Jr., P.E. City Engineer, 205 N. River, Seguin, Texas 78155. Office: 830.401.2437; Fax: 830.401.2499; Email: jramos@seguintexas.gov**

1.6 Definitions

The following definitions are used in this RFP:

- "Consultant" means the firm selected from this RFP.
- "Department" or "City" means the City of Seguin.
- "Proposer" means a firm submitting a proposal in response to this RFP.

1.7 Clarification of the Specifications and Requirements

If additional information is necessary to assist the Proposer in interpreting these specifications, written questions will be accepted by:

Name: Willa Hagemann, Assistant Director of Finance/Purchasing Manager
Email: whagemann@seguintexas.gov
Subject: CSJ 0915-46-039 Seguin Walnut Branch Linear Park Hike and Bike Trail

Written questions must be received no later than November 9, 2011 at 3:00 p.m. Central Standard Time (CST) to receive a response.

Proposed Schedule

Event	Date
RFP issued	October 28, 2011
Written questions from proposers due by	November 9, 2011/3:00 p.m. CST
Written addenda, if necessary, issued by	November 18, 2011/4:30 p.m. CST
WRITTEN PROPOSALS MUST BE RECEIVED BY THE CITY OF SEGUIN	November 29, 2011/2:30 p.m. CST
Evaluation complete (estimated)	December 13, 2011
Proposer notification. (estimated)	December 16, 2011
Contract awarded (estimated)	December 20, 2011

1.8 Contract Term

Expected contract duration is 2 years. The contract may be extended no more than 4 times for periods of 6 months each. Proposals may vary from these guidelines by no more than 30 percent.

1.9 Expenses

Covered expenses will be paid on a reimbursement basis in accordance with this RFP.

1.10 Insurance

The vendor shall, at all times during the period in which contract is in force and effect, provide and maintain insurance of the type and in limits as set forth in **Attachment C**. Such insurance shall name the parties required to secure same as insured and shall include the City of Seguin as an "additional insured" and provide City of Seguin with waiver of subrogation. Prior to the commencement of any work under this Contract, Contractor shall furnish an original completed Certificate of Insurance to the City's Assistant Director of Finance.

2. PREPARING AND SUBMITTING A PROPOSAL

2.1 Evaluation and Selection

The evaluation and selection of a Consultant will be based on the information submitted in the proposal, references, and interviews. Proposers should respond clearly and completely to all requirements. Failure to respond completely may be the basis for rejecting a proposal.

Elaborate proposals (e.g., expensive artwork) beyond that sufficient to present a complete and effective proposals are not necessary or desired.

2.2 Incurring Costs

The City of Seguin is not liable for any cost incurred by Proposers in replying to this RFP.

2.3 Submitting the Proposal

The Proposer must submit one (1) original plus three (3) copies of the proposal to the City of Seguin. All proposals must be packaged, sealed, and be clearly marked on the outside with the proposer's name and address and the following written information:

SEALED PROPOSALS

Engineering Services

Seguin Walnut Branch Linear Park Hike and Bike Trail" project CSJ#0915-46-039

City of Seguin Proposal Package No. 24-2012-07

To be opened at 3:00 P.M., CST, Tuesday, November 29, 2011

Proposal packages must be delivered to:

Via USPS:

City Manager
City of Seguin
P O Box 591
Seguin, Texas 78156-0591

Via Courier or Overnight Delivery

City Manager
City of Seguin
205 N. River
Seguin, Texas 78155

The City of Seguin must receive all proposals no later than **2:30 P.M. CST on November 29, 2011**. Proposers mailing their proposals must allow sufficient time for delivery of their proposal by the time and date specified. Late proposals will not be accepted.

2.4 Proposal Organization and Format

Proposal should be submitted on 8.5 by 11-inch paper bound securely. Proposals must be organized with the following headings and subheadings. Each heading and subheading should be separated by tabs or otherwise clearly marked.

The RFP must contain:

1. *Request for Proposal Signature Cover Page*
2. *Introduction*
3. *Response to General Proposal Requirements*
4. *Organizational Qualifications*
5. *Staff Qualifications*
6. *Project Schedule*
7. *Technical Specifications*
8. *Cost Proposal*
9. *Proposer Data Sheet (ATTACHMENT A)*

10. Reference Data Sheet (ATTACHMENT B)

2.5 Interviews

Interviews will be conducted with the top scoring Proposers by the review panel to clarify and verify the written proposals. These interviews will be held subsequent to the initial receipt and scoring of the proposal to provide an opportunity for the respondent to clarify the proposal. The Department will schedule a time and location for each interview it requests. Should a proposer refuse to honor the request for interview, this may result in rejection of the proposal.

3. PROPOSAL SELECTION AND AWARD PROCESS

3.1 Proposal Scoring and Selection

A review panel composed of representatives from the City of Seguin staff will make the selection. The panel will review and rank all proposals received. Proposers that are reasonably apt to be awarded the contract, based on evaluation of the written proposals will be requested to interview with the review panel. Preference will be given, all other considerations being equal, to a consultant whose principal place of business is within the State of Texas or who will manage the contracted project entirely from its office within the State of Texas.

3.2 Evaluation Criteria

3.2.1 Proposals

All proposals submitted in response to this RFP will be evaluated based on the following criteria:

<u>Criteria</u>	<u>Weight</u>
<ul style="list-style-type: none">▪ General Quality and Adequacy of Response<ul style="list-style-type: none">○ Completeness and Thoroughness○ Understanding of the Project○ Responsiveness to Terms and Conditions	10%
<ul style="list-style-type: none">▪ Organization, Personnel, and Experience<ul style="list-style-type: none">○ Qualifications of Personnel○ Experience of Personnel○ Experience of Firm○ Familiarity with City of Seguin and TxDOT policies and procedures	40%
<ul style="list-style-type: none">▪ Technical Approach - Quality of Package Provided<ul style="list-style-type: none">○ Approach to Problem Analysis○ Clarity and Organization in Concept Development○ Quality and Quantity of Services to be Rendered○ Proposed Schedule	35%
<ul style="list-style-type: none">▪ Cost	15%
MAXIMUM SCORE	100%

3.2.2 Interviews

The team will make a decision based on the interview results. Each proposer will be asked the same questions and scored based on responses to the questions.

3.3 Award and Final Offers

The award will be granted based on the results of the interview and references.

3.4 Right to Reject Proposals and Negotiate Contract Terms

The City of Seguin reserves the right to reject any and all proposals. The City of Seguin reserves the right to negotiate the terms of the contract, including the reimbursement rates, with the selected Proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring Proposer, City of Seguin may negotiate a contract with the next highest scoring Proposer and so on until an agreement is reached.

4. GENERAL PROPOSAL REQUIREMENTS

The Proposer should respond to the following proposal requirements:

4.1 Organizational Capabilities

- Business Organization -
 - Give name and address of submitting organization and State in which incorporated or chiefly located.
 - Identify a designated contact in your organization and list telephone number, fax number, and e-mail address.
- Understanding of Project -
 - Illustrate your understanding of the scope of work and related project activities.
 - Describe your involvement in projects concerning functional requirements development and project planning.
 - Describe your involvement in projects that included transportation agencies.
 - Be specific and identify project dates and results.

4.2 Staff Qualifications

The proposal must identify specific staff to be committed to this project. Describe their experience is related to the following qualifications and indicate what their role(s) in the project will be. Key personnel will need to meet the following qualifications.

Document their charges relative to this project, and the number of hours to be committed.

4.2.1 Minimum Skill Qualifications

4.2.1.1 Work experience within the last 5 years:

- With Design of and construction of TxDOT Hike and Bike Trails
- With AASHTO Hike and Bike Facilities
- With ADA (TDLR, DOJ) criteria

4.2.1.2 Excellent written and oral communication skills with people of all technical levels.

4.2.2 Preferred Skills Qualifications

4.2.2.1 Work experience within the last 5 years:

- With government agencies (especially TxDOT)
- With DOT and/or DOT environments
- With Texas Department of Licensing and Regulations (TDLR)
- With Department of Justice (DOJ)

4.3 Schedule Adherence

Proposers shall indicate their ability to begin work on this project within 30 days of contract award, and propose a schedule of milestones for each deliverable. The firm's history in completing all deliverables on schedule should be documented. Likewise, experience in aggressive project start-up should be noted.

5. TECHNICAL SPECIFICATIONS

5.1 General Project Description

1. Design an ADA (TDLR, DOJ) compliant Hike and Bike Trail to meet the requirements of the Transportation Enhancement Program criteria along Walnut Branch from Court Street (US 90A) to FM 78. Facility will also conform to AASHTO standards for hike and bike facilities, including dimensions, signage, materials, slopes, railing, etc.
2. The Consultant will meet with each level of management in order to determine what the needs are for each office and maintenance section. The consultant will travel to the division office and a sample of district offices, area offices, and maintenance sections in order to become familiar with TxDOT's current maintenance operations.

5.2 Project Oversight

Throughout the course of the project, the Proposer will work with City of Seguin staff that will review all materials developed by the Proposer and provide project oversight.

5.3 Project Deliverables

1. Project plan and schedule
2. Status reports
3. Project Meetings
4. Environmental Study and project clearance
5. PS & E for project
6. Construction Progress Monitoring
7. Final Punchlist

6. COST PROPOSAL

6.1 General Instructions on Preparing Cost Proposals

The cost proposal will be scored using a standard quantitative calculation where the most points will be awarded to the proposal with the lowest cost. Various costing methodologies and models may be used to analyze the cost information submitted to determine the lowest costs to the Department.

6.2 Format for Submitting Cost Proposals

For purposes of evaluation, Proposers should estimate their costs for the Project.

The cost proposal shall include a 'fixed-price' budget that lists total cost and anticipated expenditures by the following line items:

1. Labor Costs, By Individual - List estimated hours, hourly rate, and total cost
2. Overhead - Show as a percentage of labor
3. Other Direct Expenses - Transportation, Housing and Per Diem, Materials, Communications, Etc.
4. Fee
5. Total Cost

Eligible transportation costs will be reimbursed at the prevailing state travel rates.

Currently these are as follow:

- Meal Expenses - \$30.00 per day maximum
- In-State Lodging Rate - \$80.00 per day maximum
- Mileage Reimbursement Rate - 35 cents per mile
- Airfare - Coach
- Rental Car - Mid-size or smaller

6.3 Fixed Price Period

All prices, costs, and conditions outlined in the proposal shall remain fixed and valid for acceptance for ninety (90) days starting on the due date for proposals.

7. CONSULTANT RESPONSIBILITIES

The consultant is responsible for Federal and State Unemployment Insurance coverage and Standard Workers Compensation Insurance coverage. Consultant shall comply with all Federal and State tax laws and withholding requirements.

8. REPLACEMENT PERSONNEL

- Replacement of the selected consultant shall require the approval of the City of Seguin.
- If the City of Seguin determines that the selected consultant is unable to perform satisfactorily or to communicate effectively, the City of Seguin may cause their immediate removal from the contract.
- Replacement personnel shall have comparable qualifications and be provided at the contracted rate.
- Any request by the consultant to replace the selected consultant shall be done in writing to the City of Seguin. A resume for the proposed replacement shall be submitted to the City of Seguin. The City of Seguin may reject the proposed replacement if qualifications, references or past working performance are questionable or unfavorable.

- If the consultant is removed and the City of Seguin did not initiate the request, the vendor has five working days to provide a replacement. There shall be no charge to the City of Seguin for the first five working days of the replacement.

9. CITY OF SEGUIN RESPONSIBILITIES

The City of Seguin will provide

- Guidance and coordination
- Utility record drawings
- Archeological archive information
- Other City archive information

10. WORK HOURS AND LOCATION

- Services shall be provided during normal business hours unless otherwise approved and coordinated with the City of Seguin.
- Normal business hours are Monday through Friday from 8:00 am through 5:00 pm, excluding City holidays.
- The consultant may be required to work on weekends, evenings, and holidays: the City of Seguin will not pay an overtime rate for this service. All hours shall be billed at the hourly rate quoted.
- The primary work location(s) for limited personnel will be at the City of Seguin Municipal Building, 205 N. River, Seguin, Texas. Any and all commuting expenses shall be at the vendor's expense.
- The City of Seguin will provide pre-approved, written authorization for travel for any services to be performed away from the primary work location. Pre-approved travel expenses are limited to the rates and comply with the rules prescribed by the City of Seguin for travel by its classified employees, including any requirements for original receipts.

11. STANDARD CONTRACT TERMS, CONDITIONS, AND REQUIREMENTS

The successful Proposer and the City of Seguin will enter into a contract for the services described in this RFP. Failure of the successful Proposer to accept the obligations of a contractual agreement may result in a cancellation of the award.

12. REQUIRED FORMS

The following forms must be completed and submitted with the proposal.

Placed in Front Section Before the RFP Document:

1. Submission letter signed by authorized member of the organization
2. Proposer Data Sheet (Attachment A)

Placed in the Back Section After the RFP Document:

1. Reference Data Sheet (Attachment B) 3 references required

ATTACHMENT A – PROPOSER DATA SHEET

1. Proposing Company Name: _____

City: _____ State: _____

Federal Employer Identification Number: _____

OR Social Security Number (if sold proprietorship): _____

Corporation YES [] NO []

2. Proposal Contact Person

Name: _____

Title: _____

Phone: _____ Fax Phone: _____

Email: _____

3. Mailing address where reimbursements are to be mailed and person the department should contact concerning billing.

Name: _____

Title: _____

Phone: _____ Fax Phone: _____

Email: _____

4. Is the firm submitting this proposal an individual?

YES [] NO []

5. If yes, has the individual been employed by a state agency at any time during the past two years?

YES [] NO []

6. If yes, in compliance with Texas Government Code 2254.033, please attach a separate sheet to explain:

- A. The nature of the previous employment with the state
- B. The date the employment terminated
- C. The annual rate of compensation for the employment at the time of its termination

ATTACHMENT B – REFERENCE DATA SHEET

PROVIDE AT LEAST THREE REFERENCES
REPRODUCE SHEET AS NECESSARY

PROPOSER

Provide client name, location, contact person, telephone number and appropriate information on contracted services that are similar to this solicitation document.

Client: _____

City: _____ State: _____

Contact Person: _____ Title: _____

Phone Number: _____

Project Begin & End Date: _____

Services Provided: (Be sure to describe your involvement in the project: principal firm, multi-firm collaboration, sub-consultant)

**ATTACHMENT C
INSURANCE REQUIREMENTS AND INDEMNITY**

The Vendor will procure and maintain at its expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Vendor or its agents, subcontractors or employees. Before commencing the work the Vendor will furnish to the City an original certificate or certificates in a form satisfactory to the City, showing that Vendor has complied with this paragraph.

The Vendor shall not cause any insurance policy to be cancelled or permit it to lapse, and all insurance policies shall include an endorsement to the effect that the insurance policy shall not be subject to cancellation or to a reduction in the required limits of liability or amounts of insurance until notice has been mailed to the City of Seguin, ATTN: Director of Finance, P.O. Box 591, Seguin, TX 78156-0591. The notice shall state the date when such cancellation or reduction shall be effective. The cancellation date shall not be less than thirty (30) days after such notice.

Commercial general liability and motor vehicle insurance will be written with the City as an additional insured and will be endorsed to provide a waiver of the carrier’s right of subrogation against the City. The types and amounts of insurance required are set forth below:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability	\$1,000,000 combined single limits
3. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$500,000 per occurrence

The stated limits of insurance are **minimum only**. They do not limit the Vendor’s indemnity obligation, and it will be the Vendor’s responsibility to determine what limits are adequate. These limits may be met by basic policy limits or any combination of basic limits and umbrella limits. The City’s acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Vendor from compliance with these requirements.

The Vendor will indemnify, hold harmless and defend the City and its employees, agents, officers and servants from any and all lawsuits, claims, demands and causes of action of any kind arising from the negligent or intentional acts errors or omissions of the Vendor, its officers, employees or agents. This will include, but not be limited to, the amounts of judgments, penalties, interest, court costs, reasonable legal fees, and all other expenses incurred by the City arising in favor of any party, including the amounts of any damages or awards resulting from claims demands and causes of action for personal injuries, death or damages to property alleged or actual infringement of patents, copyrights, and trademarks and without limitation by enumeration, all other claims, demands, or causes of action of every character occurring, resulting, or arising from any negligent or intentional wrongful act, error or omission of the Vendor or its agents or employees. This obligation by the Vendor will not be limited by reason of the specification of any particular insurance coverage required under this Agreement.

**EXHIBIT A
ASSURANCES**

In administering a contract with the City, the Proposer assures and certifies that:

I.

COMPLIANCE WITH REGULATIONS

The Contactor shall comply with all Regulations relative to federally-assisted programs of the U.S. Department of Transportation (hereinafter referred to as DOT), as they may be amended from time to time (hereinafter referred to as Regulations).

II.

EQUAL EMPLOYMENT OPPORTUNITY/BASIC REQUIREMENTS

In accordance with 41 CFR 60, the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment with regard to their race, color, religion, sex, age, disability or national origin. Such action shall include, but not be limited to, the following: termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

III.

DISADVANTAGE BUSINESS ENTERPRISE

It is the policy of the U.S. Department of Transportation (DOT) that DBEs as defined in 49 CFR, Part 26, Subpart A, be given the opportunity to compete fairly for contracts and subcontracts finance in whole or in part with Federal funds and that a maximum feasible portion of the DOT's overall DBE goal be met using race-neutral means. The City of Seguin's DBE goal is 10%. Consequently, if there is no DBE goal, the DBE requirement of 49 CFR, Part 26, apply to this contract as follows:

The provider will offer DBEs as defined in 49 CFR, Part 26, Subpart A, the opportunity to compete fairly for contracts as subcontracts finance in whole or in part with federal funds. Race-Neutral DBE participation on projects with no DBE goal should be reported on the H-3 Form & H-5 Federal Subprovider & Supplier Information. Payments to DBEs reported on H-3 are subject to the following requirements.

DETERMINATION OF DBE PARTICIPATION

A firm must be an eligible DBE and perform a professional or technical function relating to the project. Once a firm is determined to be an eligible DBE, the total amount paid to the DBE for work performed with his/her own forces must be reported as race-neutral DBE participation. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work should not be reported unless subcontractor is itself a DBE.

A DBE subprovider may subcontract no more than 70% of a federal aid contract. The DBE subprovider shall perform not less than 30% of the value of the contract work with assistance of employees employed and paid directly by the DBE; and equipment owned

or rented directly by the DBE. DBE subproviders must perform a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibility by actually performing, managing, and supervising the work involved. To perform commercially useful function, the DBE must be responsible, with respect to material and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. When a DBE is presumed not be performing a commercially useful function, the DBE may present evidence to rebut this presumption.

A provider must report a portion of the total value of the contract amount paid to a DBE joint venture equal to the distinct, clearly defined portion of the work of the contract performed by the DBE.

Proof of payment, such as copies of canceled checks, properly identifying the DOT's contract number or project number may be required to substantiate the payment, as deemed necessary by DOT.

The provider and any subprovider shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts. These requirements shall be physically included in any subcontract.

Failure to carry out the requirements set forth above shall constitute a material breach of this contract and, may result in termination of the contract by DOT or other such remedy as DOT deems appropriate.

IV. TITLE CIVIL RIGHTS

During the performance of this contract, the consultant, for itself, its assignees and successors in interest, agrees as follows:

A. **Compliance with Regulations.** The consultant shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "DOT") Title 49, Part 21, and title 23, Code of Federal Regulations, Part 710.405 (b) as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of these assurances.

B. **Nondiscrimination.** The consultant, with regard to work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

C. **Solicitation of Subcontracts, Including Procurement of Materials and Equipment.** In all solicitations either by competitive bidding or negotiations made by the consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the consultant of the consultant's

obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age, disability, or national origin.

D. **Information and Reports.** The consultant shall provide all information and reports required by the Regulations or directive issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City, the State of Texas (hereinafter referred to as the State), or DOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to the City, State or DOT, as appropriate, and shall set forth what efforts it has made to obtain the information.

E. **Sanctions for Noncompliance.** In the event of the consultant's noncompliance with the nondiscrimination provisions of this contract, the City shall impose such contract sanctions as it, the State or DOT may determine as appropriate, including, but not limited to:

1. Withholding of payments to the consultant under the contract until the consultant complies, and/or,
2. Cancellation, termination or suspension of the contract in whole or in part.

F. **Incorporation of Provisions.** The consultant shall include all the provisions of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The consultant shall take such action with respect to any subcontract or procurement as the City, State or DOT may direct as a means of enforcing such provision including sanctions for noncompliance; provided, however, that in the event a consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the consultant may request the City to enter into such litigation to protect the interest of the City, and in addition, the consultant may request the services of the Attorney General in such litigation to protect the interests of the United States.

V.

INTERESTS OF MEMBERS OF, OR DELEGATES TO, CONGRESS

In accordance with 18 U.S.C. Sec. 431, no member of, or delegates to, the Congress of the United States shall be permitted to a share or part of this contract or to any benefit arising there from.

VI.

PROHIBITED INTERESTS

No employee, officer, or agent of the grantee shall participate in selection, or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer or agent;
- b. Any member of his/her immediate family;
- c. His/her partner; or

- d. An organization which employs, or is about to employ has financial or other interest in the firm selected for award.

The grantee's officer, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from consultants, potential consultants, or parties of subagreements.

VII.

DEBARRED BIDDERS

The consultant, including any of its officers or holder of a controlling interest, is obligated to inform the City whether or not it is or has been on any debarred bidders' list maintained by the United States Government. Should the consultant be included on such a list during the performance of this project, shall so inform the City.

- (1) The PROVIDER certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a state or federal transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a state or federal governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more state or federal transactions terminated for cause or default.
 - (e) Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.
- (2) Where the PROVIDER is unable to certify to any of the statements in this certification such PROVIDER shall attach an explanation to this certification.

VIII.

CONSERVATION

Contractor shall recognize the mandatory standards and policies relating to energy efficiency which are contained in the State of Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. Section 6321 et seq).

IX.

PROGRAM FRAUD AND CIVIL REMEDIES

This contract is subject to Title 49 of Part 31 of the Regulations.

X.

DRUG-FREE WORKPLACE ACT

The contractor certifies that in complies with the Drug-Free Workplace Act requirements through signing the attached certification, which is incorporated by reference hereto as Exhibit "A.1".

XI.

INSURANCE

The Contractor shall provide continuous enforcement of adequate insurance issued by companies authorize to conduct business in the State of Texas covering all employees of the contractor. The contractor shall keep in full force and effect during the term of this contract insurance in the following types and amounts:

TYPE	AMOUNT
General Liability:	\$1,000,000
Premises/Operation	(combined single limit)
Independent Contractors	
Personal Injury	
Products/Completed Operations	
Contractual Liability	
Auto Liability	\$ 500,000
Workers Compensation	Statutory

All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form, content, form of protection, and insurance company. The contractor shall furnish to the City Manager, for the city files, certificates or copies of the policies, plainly and clearly evidencing such insurance, with exclusion, exception, or limitations prior to the execution of this contract by all parties. The consultant will be able to provide the Texas Department of Transportation (TxDOT) Insurance Certificate, Form 20.102.

XII.

RESTRICTION ON LOBBYING

Contractor shall certify that no federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or any agency, or Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned

shall completed and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction.

The undersigned shall require that the language of this certification be included in the award documents for all documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and discloses accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into.

XIII.

CHILD SUPPORT STATEMENT

Section 231.006 (a), Family Code, specifies that a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligator is a sole proprietor, partner, shareholder or owner with an ownership interest of at least 25% is not eligible to receive payments from state funds under a contract to provide property, materials or services; or receive at state-funded grant or loan.

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid; or the obligor is in compliance with written repayment agreement or court order as to any existing delinquency; or the court of continuing jurisdiction over the child support order has granted the obligor an exemption from subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

Except as provided by Section 231.302(d), Family Code, a social security number is confidential and may be disclosed only for the purposes of responding to a request for information from an agency operating under the provisions of Parts A or D of Title IV of the federal Social Security Act (42 U.S.C. Sections 601 et seq. and 651 et seq.)

The Contractor certifies that in complies with the section 231.006, Family Code requirements through signing the attached certification, which is incorporated by reference hereto as Exhibit "A.2".

XIV.

INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend City, its officers, and employees, from and against all liability any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses including court costs and attorney's fees and other reasonable costs arising out of or resulting from the intentional acts or negligence of the Contractor, its officers, agents, or employees. Where any claim, liability, or damage is the result of the joint negligence or willful misconduct of the City and Contractor, Contractor's duty of indemnification shall be in proportion to its allowable share of joint negligence or willful misconduct.

XV.

AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract.

Acceptance of funding directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

XVI.

REIMBURSEMENT OF ELIGIBLE COSTS

To be eligible for reimbursement, the Engineer's cost must comply with cost principles set forth at 48 CFR, Part 31, Federal Acquisition Regulations (FAR 31).

XVII.

INSPECTION OF WORK

A. Review of Rights. The State and the U.S. Department of Transportation (DOT), when federal funds are involved, and any of their authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed hereunder and the premises in which it is being performed.

B. Reasonable Access. If any review or evaluation is made on the premises of the Engineer or a subprovider, the Engineer shall provide and require its subproviders to provide all reasonable facilities and assistance for the safety and convenience of the state or federal representation in the performance of their duties.

Signature

Date

Typed Name

Title

ATTEST:

Signature

Date

Typed Name

EXHIBIT A.1
DRUG-FREE WORKPLACE CERTIFICATION

1. The CONTRACTOR certifies that it will provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance in the Contractor's workplace is prohibited and specifying the action that will be taken against employee for violation of such prohibition.
 - (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Contractor's policy of maintaining a drug-free workplace;
 - (3) Any drug counseling, rehabilitation, and employee assistance programs that are available; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - (c) Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a).
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction.
 - (e) Notify the City of Seguin within ten (10) days after receiving notice under subparagraph (d)(2), from an employee or otherwise receiving actual notice of such conviction.
 - (f) Taking one of the following action, within thirty (30) days of receiving notice under subparagraph (d)(2), with respect to any employee so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or.
 - (2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposed by Federal, State or local health, law enforcement, or other appropriate agency.
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

2. The Contractor's headquarters is located at the following address. The addresses of all other workplaces maintained by the Contractor are provided on an accompanying list.

Name of Contractor: _____

Street Address: _____

City: _____

County: _____

State: _____

Zip Code: _____

SIGNED BY: _____

Typed Name

Date

EXHIBIT A.2

CHILD SUPPORT STATEMENT

Under section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

List below the names and social security number of the individual or sole proprietor and each partner, shareholder or owner with an ownership of interest of at least 25% of the business entity submitted the bid or application.

Except as provided by Section 231.302(d), Family Code, a social security number is confidential and may be disclosed only for the purposes of responding to a request for information from an agency operating under the provisions of Parts A or D of Title IV of the federal Social Security Act (42 U.S.C. Sections 601 et seq and 651 et seq)

DISADVANTAGED BUSINESS ENTERPRISES REQUIREMENTS

PROJECT: Construction of a Hike & Bike Trail along Walnut Branch to serve as a transportation corridor for pedestrians and bicyclists in Seguin. The trail route is from Court Street (Hwy 90) to FM 78.

CITY: SEGUIN

COUNTY: GUADALUPE

TxDOT CSJ: #0915-46-039

The following goal for Disadvantage Business Enterprise is established at:

10%

Certification of DBE Goal Attainment

By signing the proposal, the Proposer certifies that the above DBE goal will be met by obtaining commitments equal to or exceeding the DBE percentage or that the Proposer will provide a good faith effort to substitute the attempt to meet the goal.

Failure to provide commitments to meet the stated goal or provide a satisfactory good faith effort will be considered a breach of the requirement of the proposal. As a result, the bid proposal guarantee of the Proposer will become the property of the City of Seguin and the Proposer will be excluded from submitting a proposal when it is re-advertised.