REQUEST FOR STATEMENT OF QUALIFICATIONS

ARCHITECTURAL SERVICES FOR THE RENOVATION/EXPANSION OF THE TYE PRESTON MEMORIAL LIBRARY

SOQ #2024-001

ISSUED BY:
Canyon Lake Community Library District
16311 S Access Road
Canyon Lake, Texas 78133
May 11, 2024

{Proponent Name}  
{Address}  
{District, State, Zip}

Dear {Representative’s Name},

The Canyon Lake Community Library District (the “District”) invites you to submit a Statement of Qualifications (“SOQ”) for the Renovation and Expansion of the Tye Preston Memorial Library.

The District appreciates your time and effort in preparing this SOQ. You must submit your SOQ in a sealed envelope marked "DO NOT OPEN - SOQ – Renovation and Expansion of the Tye Preston Memorial Library" and deliver to the Office of the Library Director, 16311 S Access Road, Canyon Lake, Texas 78133 no later than June 13, 2024 at 2:00 p.m. Central Standard Zone, Central Standard Time (C.S.T.). The District will not accept SOQ’s after the 2:00 p.m. submittal deadline.

A non-mandatory pre-qualification conference will be held on May 21, 2024 at 10:00 a.m. in the Tye Preston Memorial Library, Board Room, 16311 S. Access Road, Canyon Lake, Texas.

SOQ’s will be publicly acknowledged in the Tye Preston Memorial Library, Board Room, 16311 S. Access Road, Canyon Lake, Texas at 2:00 p.m. on June 13, 2024. All addenda are only available for viewing at and at www.tpml.org/procurement.

Award of the contract will be made in the Board Room at the meeting of the Board of Trustees on August 28, 2024 or any subsequent date. It is anticipated that the contract start date will be September 1, 2024. IT IS UNDERSTOOD that the District reserves the right to reject any/or all SOQ’s/proposals as it deems in the best interest of the District.

Thank you,

Natalie Shults  
Library Director
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3. GENERAL SPECIFICATIONS

A. TIMETABLE: The following is a timetable of the SOQ and subsequent Cost Proposal timeline:

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<tr>
<td>SOQ Issued</td>
<td>May 12, 2024</td>
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<td>Non-Mandatory Pre-SOQ Conference</td>
<td>May 21, 2024</td>
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<td>SOQ Due</td>
<td>June 13, 2024</td>
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<td>Cost Proposals Due</td>
<td>July 10, 2024</td>
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<tr>
<td>Award of Contract</td>
<td>August 28, 2024</td>
</tr>
<tr>
<td>Anticipated Contract start date</td>
<td>September 1, 2024</td>
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B. INTRODUCTION: The Canyon Lake Community Library District (the “District”) is requesting SOQs from Architectural firms to prepare preliminary design, construction drawings, specifications and proposal documents for the Renovation and Expansion of the Tye Preston Memorial Library (the “Project”). The successful proponent will perform construction administration duties for the duration of the Project. All services are to be performed by persons appropriately licensed or registered under state laws governing the practice of architecture and engineering.

C. BACKGROUND: The Library is located at 16311 S Access Road in Canyon Lake, Texas. Canyon Lake is in the unincorporated portion of Comal County. The County is the fourth fastest growing county in the United States.

The legal service population of the District is 31,124 which is a 46% increase in the population from when the current building opened in 2010.

The current facility was opened on October 9, 2010. The building has 18,000 square feet and sits on almost 6 acres of land. In February 2023, the District procured 5.59 acres of property adjacent to the current facility. In 2010 we had 61,038 visitors, 3,854 in program attendance and 98,251 in physical checkouts. We have 24% more patrons visiting, 60% more attending our programs, and 29% more materials circulating.

There are eight full-time staff members, including the director and five part-time employees. The Library relies heavily on volunteers. In 2022 volunteers contributed 9517 hours of service.

The District will utilize the competitive proposal method of construction delivery in accordance with Section 2269 Subchapter D of the Texas Government Code for the Project.

D. SCOPE OF WORK: This SOQ identifies the District’s minimum requirements.

1. Environmental: The successful proponent will review and consider all environmental and environmental-related requirements and the associated
implications of design, construction, and cost and prepare the required environmental document(s). This phase may run concurrently with the preliminary design phase and the final design phase of the project.

2. Inspection and Testing Services: The successful proponent will provide construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility.

3. Meetings and Presentations: The successful proponent will:

   a) Participate in the following meetings including an initial meeting, monthly progress meetings, and follow up meetings as required:

       1) Construction Committee Meetings: Meet with the Construction Committee and other relevant Library staff as needed, for the duration of the Project in order to develop and review the required plans and documents;

       2) Public Meetings: A minimum of one (1) public meeting to gather input from the community with regard to the Conceptual design of the Project. The District will be responsible for advertising and conducting the meeting, as well as for recording the minutes and analyzing the results;

       3) Library Board Meetings: Present the conceptual plans and budget to the Library Board for its review and public comment prior to finalization of design; and

       4) Meet with the District's representative periodically to update the District on the progress of the work.

   b) Prepare and maintain meeting minutes.

   c) Meetings with other agencies include, but are not limited to, Comal County Commissioner’s Court.

   d) Prepare and conduct presentations on an as needed basis.

4. Phase I Preliminary Design:

   a) Prepare a design report defining project requirements, general scheduling, documentation of the studies performed and recommendations provided. The successful proponent will include a preliminary opinion of probable construction cost in this design report. The design report as approved by the District will be the basis of the final design. The design report will include, at a minimum:

       1) Expanded space for the children’s area utilizing the existing parking lot;
2) Baby care room;

3) Enclosed quiet reading room off the current adult area;

4) Sensitivity to sound insulation;

5) Glass walls;

6) New carpet throughout current building;

7) Upgraded Skywall wall partitions for meeting room;

8) Additional staff space to be expanded from current staff space (by fountain and encompassing bookstore);

9) Additional staff restroom to reside in the staff space.

10) Removal of current wall/cabinets to create more open space;

11) Space for a clothes washer and dryer

12) A covered awning in parking lot that allows a drive-thru book drop window that would be built into the actual building (by the existing mailbox);

b) Provide two (2) 33-1/8 x 46-13/16 in presentation boards which can be used at the meetings to inform the community of the design and District’s plan. The presentation boards will include full color perspective drawings for Phase I and Phase II of the Project.

2. **Final Design:** The successful proponent will prepare final design plans and specifications for Phase I of the Project. All design services will be coordinated closely with the District’s Project Manager. The successful proponent will prepare a final project cost estimate prior to the District’s publication of the request for proposals for construction.

3. **Phase II - Preliminary Design:**

a) Additional parking that adjoins the current parking lot to the new property; and

b) Separate building structure to include;

   1) 150 seat theater;

   2) Makerspace with outdoor ventilation and soundproofing;
3) Additional meeting room that seats up to 150 and to have access to small kitchen (refrigerator and counter space);

4) Computer lab;

5) Restrooms; and

6) Staff workstation/reception desk.

4. **Final Design**: The successful proponent will prepare final design plans and specifications for the Project. All design services will be coordinated closely with the District’s Project Manager. The successful proponent will prepare a final project cost estimate prior to the District’s publication of the request for proposals for construction.

5. **Preparation of Construction Documents**: The successful proponent will prepare the construction documents so that the documents are of sufficient detail to facilitate the construction of the project. The construction documents will include:

   a) Specifications: The successful proponent will prepare the technical specifications for the project in a manner that follows recognized industry standards for format. All improvements must be designed in accordance with the Americans with Disabilities Act (ADA) and the Texas Elimination of Architectural Barriers Act. The successful proponent will be responsible for the submission of drawings and technical specifications to the Texas Department of Licensing and Regulation for their review prior to the District’s selection of a construction contractor. The successful proponent will:

      1) Provide Construction plans: Plan/profile sheets covering the construction at a scale of 1”=20’, and detail sheet(s) utilizing District design criteria;

      2) Provide review sets at 30%, 60% and 100% (the 60% submittal will include technical specifications and the proposal form); and

      3) Provide technical specifications utilizing District design criteria.

   b) Request for Proposal Documents: The District will provide the successful proponent with the District's standard front-end documents. The successful proponent will be responsible for editing these documents and providing supplemental information as appropriate. The District will prepare the final draft of the front-end documents. The successful proponent will be responsible for copying and binding up to ten (10) copies sets of proposal documents which include the front-end documents and the technical specifications and plan sets.
c) Pre-Proposal Conference: The successful proponent will conduct the pre-proposal conference and prepare necessary addenda for distribution by the District.

d) Proposal Receipt: The successful proponent will be present at the proposal opening and will assist the District with its review and the evaluation of the proposals. The successful proponent will provide the District with a written recommendation for a contract award.

6. **Project Coordination**: The successful proponent will assist the District in the coordination of the project with the following:

a) ADA related issues: Coordination with the Texas Department of Licensing and Regulation for compliance with Texas Elimination of Architectural Barriers Act.

b) Inspectors: Obtain approval of technical plans and specifications from all applicable government agencies prior to issuing the request for proposals.

c) Obtain permits: Assist the District in acquiring permit documentation required for approval from governmental entities having jurisdiction over this Project.

7. **Project Administration**: After the District awards the construction contract; the successful proponent will perform the following items that represent a generalized requirement for project administration services in accordance with the District’s standard terms and conditions attached as Attachment “C”.

a) Project Team: Assembling a project team that includes appropriate subconsultants;

b) Project Schedule: Developing a project schedule and monitoring and adjusting to meet project deadlines; and

c) Project Management: Perform general administrative duties associated with the Project, including process monitoring/reporting, general correspondence, office administration, and invoicing. This activity also includes maintaining communication with the District and the District’s Project Manager to execute the work in accordance with the work plan, budget, and schedule. Tasks include:

1) Project Reports: Prepare and submit progress reports to the District including project invoices on a monthly basis.

2) Submit interim progress updates bi-weekly. Progress reports will briefly summarize progress of work tasks, key decisions which will require input from or discussion with the District, and a list of problems or unresolved
issues. As part of the progress reports, the successful proponent will maintain an “issues list” identifying issues, date the successful proponent was made aware of the issue, the person responsible for corrective action, and date the corrective action is required.

8. **Construction Administration:** Be responsible for construction administration services in accordance with Section 4 of the District’s standard terms and conditions attached as Attachment “D”.

   a) Conduct a pre-construction conference;

   b) Visit the construction site a minimum of once a week to inspect and document the quality and progress of the work;

   c) Provide weekly written status reports to the District;

   d) Conduct weekly Project meetings with District and the District’s Project Manager;

   e) Process contractor pay requests (in triplicate) and verify that work has been completed at specified wage rates;

   f) Administer change orders;

   g) Advise the District of any problems related to the Project; and

   h) Conduct final inspection and prepare punch lists prior to final acceptance by the District.

**E. DELIVERABLES:** The successful Proponent will provide the District with the following:

1. Presentation boards, research, detailed cost estimates and other recommendations in both a written hard copy and as an electronic file in pdf files;

2. Any PowerPoint presentations developed as part of the Project; and

4. SPECIAL PROVISIONS

A. SUCCESSFUL PROONENT BIDDING ON PROJECT: Selection of firm for this Project will preclude the firm or any subsidiary or financially related company from submitting bids for any construction, equipment or service associated with this project. Selection for this Project will not preclude the firm from performing detailed design services on recommended projects.

B. PREPARATION OF SOQ: Proponents are encouraged to prepare and submit concise and clear responses to this Request for SOQs (the “SOQ”). Responses of excessive length or complexity are discouraged. The District reserves the right to include the selected SOQ or any part of the selected SOQ in the final contract.

C. REIMBURSEMENT: The District makes no commitment to any proponent of this SOQ beyond consideration of the written SOQ. The District will not reimburse proponents for the costs incurred in preparing SOQs, presentations, etc.

D. COLLUSION: By submission of a SOQ, the Proponent certifies, and in the case of a joint SOQ each party certifies as to its own organization, that in connection with any cost proposal submitted by the Proponent, the prices which are quoted are not the product, direct or indirect, of any collusion with any other Proponent, and have not been knowingly disclosed by the Proponent directly or indirectly to any other proponent prior to submission to the District.

E. EFFECTIVE PERIOD OF SOQS: All SOQs must state the period for which the SOQ will remain in effect. Such period will not be less than 90 days from the SOQ due date. No SOQ’s may be withdrawn prior to the effective period date.

F. ADDITIONAL INFORMATION: Inquiries regarding this SOQ will be submitted in written form only, and must be received by 5:00 p.m. Central Standard Zone, Central Standard Time (C.S.T.), ten (10) business days prior to the SOQ submission date. All inquiries must include a contact person and address. Inquires will be submitted to:

Library Director
16311 S Access Road
Canyon Lake, Texas 78133
Email: Director@tpml.org

G. PRE-SOQ CONFERENCE: A non-mandatory pre-SOQ conference will be held on May 21, 2024 at 10:00 a.m. in the Tye Preston Memorial Library, Board Room, 16311 S. Access Road, Canyon Lake, Texas. Attendance will be made a matter of record, by signing the attendance log. Pre-SOQ conference will start promptly at 10:00 a.m. All prospective proponents must be in attendance at 10:00 a.m. in order to be considered responsive. The purpose of the pre-SOQ conference is to insure:
1) a clear understanding of the District’s needs;

2) the accuracy of specifications, descriptions, and solicitation terms, conditions, and documents; and

3) identifying any problems which might prevent obtaining the proper services, and identifying any issues that inhibit a fair and accurate solicitation or restrict competition.

H. ADDENDA: Any changes resulting from the questions submitted affecting the scope of work, or which may require an extension to the SOQ due date will be reduced to writing in the form of an addendum to this solicitation. All addendums can only be viewed at www.tpml.org/procurement. It is the Proponent’s responsibility to check the above site to determine if the District has issued any addenda. Addenda will be issued no later than five (5) business days prior to the SOQ due date.

I. LOBBYING PROHIBITED: Potential proponents are prohibited from directly or indirectly communicating with District members regarding their qualifications or any other matter related to the eventual award of a contract for the services requested in this SOQ. Potential proponents are prohibited from contacting Library staff or evaluation committee members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff or committee member. Any violation will result in immediate disqualification of the Proponent from the selection process.

J. EXPENSES:

1. The Proponent will pay for all travel and transportation expenses for its employees.

2. The Proponent will assume all communications expenses for its employees, including phone tolls, postage, etc.

K. PAYMENT: Prior to the execution of a contract for these services, the successful Proponent will complete a Request for Taxpayer Identification Number and Certification Form (See Attachment “A”). The District will not make payment against the contract until it has received the properly completed form. The successful Proponent will invoice the District for services rendered accompanied by the District’s required documentation.

L. PROTESTS: A protest to the District’s consideration of any SOQ must be submitted in writing and received by the Library Director no later than five (5) calendar days after the SOQ due date. A written reply to the protest will be sent to the protesting proponent by the Library Director. The protest must contain:

1. Identification of the statute or procedure that is alleged to have been violated;

2. A precise statement of the relevant facts;
3. Identification of the issues to be resolved; and

4. Aggrieved party’s argument and supporting documentation.

M. CERTIFICATE OF INTERESTED PARTIES: A proponent who receives a contract award in an amount greater than $50,000 is required to electronically create a Certificate of Interested Parties Form 1295 through the Texas Ethics Commission (“TEC”) website (https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) and submit a signed and notarized copy of the form to the District prior to the award of the contract. A contract, including a District-issued purchase order, will not be enforceable or legally binding until the District receives and acknowledges receipt of the properly completed Form 1295 from the Proponent.

N. NON-SMOKING: All facilities where work is to be performed or Professional Services rendered are nonsmoking buildings. Architects/Engineers, their Consultants, and their employees are prohibited from smoking on Library property.

O. OPEN RECORDS REQUIREMENT. All documents submitted as part of the proponent’s response will be deemed confidential during the evaluation process. Proponent’s responses will not be available for review by anyone other than the District staff or its designated agents. Following award of contract, all SOQ's/Proposals become public documents and are available for public viewing upon written request to the District except where SOQ/Proposal information is considered to be confidential or a trade secret belonging to the Proponent and, if released would give advantage to a competitor. That information will be clearly marked: “CONFIDENTIAL – DO NOT DUPLICATE WITHOUT PERMISSION”. Please note that all information is subject to the Texas Public Information Act.

P. AVAILABILITY OF FUNDS. In the event that sufficient funds are not available for the project, the District reserves the right to negotiate the scope of this contract, delay implementation, reject all SOQ’s/Proposals, or award another type of contract other than that required in this SOQ.

5. RESPONSE TO THE STATEMENT FOR QUALIFICATIONS

The following items are required in each SOQ. In order to expedite the evaluation of the SOQs, Proponents will organize their SOQs in the sequence provided below. Instructions regarding scope and contents are given in this section. These instructions are designed to ensure the submission of information essential to the understanding and comprehensive evaluation of the SOQ.

A. EXECUTIVE SUMMARY: An Executive Summary that includes the major facts or features of the SOQ, including any conclusions, assumptions and generalized
recommendations the proponent desires to make. The Executive Summary will be limited to two pages.

B. CONSULTANT PROFILE: Provide the following information about the project team. The Consultant Profile Section is limited to a length of one page.

1. Firm name and business address, including telephone number.

2. Year established (including former firm names and year established, if applicable).

3. List of current projects which are similar in scope and cost.

C: EXPERIENCE AND REFERENCES: The intent of this section is to obtain information related to at least three (3) library renovation projects and no more than five (5) projects the proponent has successfully completed within the past seven (7) years that illustrate the proponent's ability to perform services required for this project. The projects referenced will be similar in scope to the project defined in this SOQ. The projects referenced will include the names of personnel identified for each of these projects. The Experiences and References Section is limited to a length of two pages per project. For each referenced project, provide the following information:

1. Project name and location;

2. Name, address, and telephone number of the owner's representative for the project;

3. Scope of services provided;

4. Architect’s opinion of probable cost and final construction cost;

5. Comparison of estimated construction time to actual construction time; and

6. Number of construction change orders and dollar amount of each change order.

D. QUALIFICATION OF PROJECT TEAM: Provide the following:

1. An organizational chart identifying the personnel who will be assigned to this project. Identify the project manager responsible for this project. This project manager will have the responsibility and authority to act on behalf of the project team in matters relating to the proposed project. Identify all sub-consultants on the organizational chart and provide information on their role on each team;

2. Information on each team member in terms of position in the firm and on the project team, number of years with the firm, relevant projects the person has worked on in the past and their particular responsibilities for this project; and
3. The Qualification of Project Team Section is limited to a length of one page for the organizational chart, a two-page limit for the project managers resume, one-page limit for task leader resumes, and one-half page limit for the resumes of all other team members.

E. PROJECT UNDERSTANDING AND APPROACH: Provide the following:

1. A written narrative detailing your understanding and approach to the project. Include the project purpose, the effect on the community, any significant features that could have an impact on the design/construction/cost of the project(s), and your understanding of the requirements for project’s completion; and

2. A description of your proposed work plan including a time schedule and approach for accomplishing the scope of work identified in this SOQ.

The Project Understanding and Approach Sections are limited to a length of two pages for each project.

F. SPECIFIC EXPERIENCE: Briefly, limited to a length of one page, describe relevant experience in the following areas and reference projects illustrating that experience:

1. Public awareness and involvement in project development; and

2. Projects designed with a rural more rustic approach.

G. METHODOLOGY: A description of Proponent’s proposed methodology for the renovation and construction including a recommendation for scheduling of the library hours and address dust management of the books and publications.

H. ERRORS AND OMISSIONS: A brief statement providing assurances that the proponent will be cognizant of, comply with and enforce all applicable Federal, State and Local statutes and ordinances and a description of the Proponent’s methodology for handling errors and omissions in the plans and specifications that will be developed as part of this project.

I. DESIGNATED REPRESENTATIVE: Assurance that the Proponent will work with the District’s designated representative and a description of the coordination process and sequencing between the Proponent and the District for the duration of the Project.

J. PROPOSENT INFORMATION QUESTIONNAIRE: In order to be considered responsive, each Proponent will submit, with its SOQ, the Proponent Information Questionnaire (Attachment “B”).

Failure to address Section 6 (A – J) in detail will be sufficient reason to eliminate a SOQ from consideration.
6. SUBMISSION OF STATEMENT OF QUALIFICATION

Submit one (1) original and five (5) copies and a USB flash drive as a pdf file of the SOQ (as one file) label below by the date and time on the label below. The District will not accept SOQs after the 2:00 p.m. submittal deadline. The Proponent will attach the label below on the sealed envelope.

To the extent permitted by law, all documents pertaining to each SOQ received will be kept confidential until a contract is awarded. No information about any SOQ will be released to the public until the process is complete. The District is under no obligation to return SOQs.

It is the sole responsibility of the Proponent to ensure that its SOQ reaches the District’s Library Director. All SOQ, unless otherwise specified, will be delivered to the address on the label no later than the time and date specified below. The Proponent is cautioned that it is responsible for delivery to the specific location cited below. Therefore, if your SOQ is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the address below. The District is not responsible for deliveries made to any place other than the specified address.

The District will not accept or consider SOQ received after the specified date and time.

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**SEALED STATEMENT OF QUALIFICATION · DO NOT OPEN**

**SEALED SOQ NO.:** SOQ # 2024-001

**SOQ TITLE:** ARCHITECTURAL SERVICES FOR THE RENOVATION AND EXPANSION OF THE TYE PRESTON MEMORIAL LIBRARY

**DUE DATE/TIME:** JUNE 13, 2024 at 2:00 P.M.

**SUBMITTED BY:**

(Name and District/State of Proponent)

**DELIVER TO:**
Tye Preston Memorial Library
Office of the Library Director
16311 S Access Road
Canyon Lake, Texas 78133

Cut along the outer border and affix this label to your sealed SOQ envelope to identify it as a “Sealed Statement of Qualifications”. Include the name of the company submitting the SOQ where requested.
7. EVALUATION OF STATEMENT OF QUALIFICATIONS

A. EVALUATION CRITERIA: The SOQs submitted in response to this request will be evaluated by a committee using a two-step process as described by the Professional Services Procurement Act (Texas Government Code, Chapter 2254). The District will initially evaluate the qualifications of firms submitting SOQs based on but not limited to the following criteria:

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<th>Criteria</th>
<th>Description</th>
<th>Points</th>
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<td>1. Experience and performance of firm.</td>
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<tr>
<td>2. Management, team organization and experience of key team members.</td>
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<td></td>
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<tr>
<td>3. Methodology and technical approach to meet the requirements of this SOQ.</td>
<td>25</td>
<td></td>
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<tr>
<td>4. Project understanding and approach.</td>
<td>25</td>
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<tr>
<td>TOTAL</td>
<td>100</td>
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The District reserves the right to request additional information or clarifications from all Proponents and to allow corrections of errors or omissions.

Optional: The District may request the short-listed proponents to participate in an interview and provide a presentation that is worth up to an additional 25 points per evaluator. Any additional points earned as part of this presentation will be added to the points the Proponents received in the first round of the evaluation to determine the total number of points.

In responding to this SOQ, the Proponent understands that the decision of the selection committee is final.

B. RANKING: All SOQs will be reviewed and ranked according to the criteria above, and proponents may be selected for interviews or oral presentations as may be necessary. The District makes no commitment to any proponent beyond consideration of the written response to this SOQ. The District’s mandatory terms and conditions for professional service contracts are attached as Attachment “C”.

The District reserves the right to request additional information or clarifications from all Proponents and to allow corrections of errors or omissions.

Optional: The District may request the short-listed proponents to participate in an interview and provide a presentation that is worth up to an additional 25 points per evaluator. Any additional points earned as part of this presentation will be added to the points the Proponents received in the first round of the evaluation to determine the total number of points.

In responding to this SOQ, the Proponent understands that the decision of the selection committee is final.

B. RANKING: All SOQs will be reviewed and ranked according to the criteria above, and proponents may be selected for interviews or oral presentations as may be necessary. The District makes no commitment to any proponent beyond consideration of the written response to this SOQ. The District’s mandatory terms and conditions for professional service contracts are attached as Attachment “C”.
8. AWARD OF CONTRACT

A. NEGOTIATIONS: After selection of a proponent based on qualifications, the District will then enter into negotiations as to the terms of the agreement, all aspects of services, and the compensation to be paid to the Proponent. The District will enter into a contract with either a fixed fee or an hourly with cap fee structure.

1. Once a proponent has been asked to participate in the second phase of the contract award process, the Proponent will submit a cost proposal within five (5) calendar days of the District's request as follows:

   (a) The cost proposal must include an official offer to undertake the proposed work at the quoted price and a detailed explanation of the quoted price which will include an estimate of the number of hours to be spent by the proponent on the project. The costs identified in the proposal will include all costs for labor, materials and expenses. In addition, an hourly fee schedule must be submitted for use as the basis of any additional services. The cost proposal will show all costs for each phase of the project.

   (b) The official offer will include a commitment to perform all financial responsibilities relative to the performance of the proposed contract including submitting all invoices and accounting for all funds.

   (c) All cost proposals will remain in effect for 90 days from the date of the District’s receipt of the cost proposal.

B. INABILITY TO REACH AGREEMENT: In the event the negotiations between the most qualified proponent selected and the District cannot be completed as a result of an inability to reach agreement on the fee for services, or the scope of work to be performed, then at the option of the District, the contract may be awarded to the second most qualified proponent. Negotiations will continue in this sequence until a contract is finalized or all proposals are rejected.

C. SUCCESSFUL PROPOSANT’S DOCUMENTS: The successful Proponent will provide its proposal and any negotiated amendments to the proposal to the Director of the Tye Preston Memorial Library as an electronic Microsoft Office Word file.

D. CONTRACT AWARD: The selection of a Proponent and the execution of a contract, while anticipated, are not guaranteed by the District. The District reserves the right to determine which proposal is in the District’s best interest and to award the contract on that basis, to reject any and all proposals, waive any irregularities of any proposal, negotiate with any potential Proponent (after proposals are opened) if such is deemed to be in the best interest of the District.
E. FINAL CONTRACT:

1. The selected proponent will be required to assume responsibility for all services offered in its proposal, whether or not such services are provided by a subcontractor or joint venture arrangement. The selected proponent will be considered the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

2. The selected proponent will be required to enter into a written contract with the District as drafted by the District. The District’s terms and conditions for this contract are attached as Attachment “C”. Where conflicts exist between the provisions of Attachment “C” and the provisions of this SOQ, the provisions imposing greater responsibility on the successful proponent will control.

3. This SOQ and the selected proponent’s proposal, or any part thereof, may be incorporated into and made a part of the final contract. The District reserves the right to negotiate the terms and conditions of the contract with the selected proponent.
9. ATTACHMENT “A”
The U.S. grantor or other owner of a grantor trust and not the trust, and
2. The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign persons. If you are a foreign person, do not use Form W-8. Instead, use the appropriate Form W-8 [see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities].

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specific to the saving clause may permit an exemption from tax to continue for certain types of income even after the taxpayer has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-8 that specifies the following five items:
1. The treaty country.
2. The article of the treaty addressing the income.
3. The article number (if located) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship payments to a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if he or she stays in the United States beyond a calendar year. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-8 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 20% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, and payments to persons issuing securities held as listed property. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:
1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payers and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requestor of Form W-9.

Also see Special rules for partnerships on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $5,000 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person of entry whose number you entered in Part I of the form.

 Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company (LLC)" box only and enter the appropriate code for the tax classification ("F" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC [including a foreign LLC with a domestic owner] that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other names. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "exempt payee" box in the line following the business name, sign and date the form.
Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see How to get a TIN below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see Limited Liability Company (LLC) on page 2), enter the owner’s SSN (or EIN, if the owner has one). Do not enter the disregarded entity’s TIN. If the LLC is classified as a corporation or partnership, enter the entity’s EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-322-0795. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write “Applied For” in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester. (Note. Entering “Applied For” means that you have already applied for a TIN or that you intend to apply for one soon. Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.)

Part II. Certification

To establish the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be required to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see Exempt Payees on page 2.

Signature Requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and broker exchange accounts opened before 1984 and broker accounts considered inactive during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividends, broker, and broker exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:
- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

VICTIMS OF IDENTITY THEFT

If you are a victim of identity theft and have questions about identifying the victim, securing your tax records, or the identification process, contact your local office of the IRS. If you have questions about your tax liability or the status of your tax return, please call 1-800-829-1040.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email or websites designed to mimic legitimate business emails and websites. The most common act is sending an email or a website that is not secure, or contains a link to download software, in order to trick you into providing your personal information.

The IRS does not initiate contacts with taxpayers via email. If you receive an unsolicited email claiming to be from the IRS, forward it to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: identitytheft.gov or contact them at 1-877-IDTHEFT (438-4384).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, Keogh plan, or Archer MSA or HSA; contributions or distributions, and pension distributions. You must give your correct TIN, but you do not need to sign the certification.

List all individuals who furnished the TIN and the TIN number.

1. Incomplete or inaccurate information furnished on an incorrectly filed return by the preparer, result in loss of preparer's penalty.

1. Incomplete or inaccurate information furnished on an incorrectly filed return by the preparer, result in loss of preparer's penalty.

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1. Incomplete or inaccurate information furnished on an incorrectly filed return by the preparer, result in loss of preparer's penalty.
10. ATTACHMENT “B”

Proponent Information Questionnaire
This document will be submitted with the SOQ or the SOQ will be considered non-responsive.

Name of Firm: _________________________________________________________

Principal Office Address: _________________________________________________

_________________________________________________

Telephone Number: ________________________________________________

Form of Ownership (check one)
( ) Corporation      State of Incorporation/Registration ___________
                  Date of Incorporation/Registration ___________

( ) LLC

( ) Joint Venture

( ) Partnership: If Partnership, select one of the following: ( ) Limited or ( ) General

( ) Individual

Firm has been in business since: __________________

List of Partners, Principals, Corporate Officers or Owners

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SOQ 2024-001

1. Have you had any contracts terminated for default or other performance reasons? __ Yes ___ No    If yes, explain: ____________________________
                                                                                                  ____________________________
                                                                                                  ____________________________
                                                                                                  ____________________________

2. Has your firm been convicted of a criminal offense committed in Comal County, Texas involving fraud, theft, bribery, kickbacks, or unlawful gifts to a public official? __ Yes ___ No    If yes, has the conviction occurred within three years immediately preceding either the date of submission of a SOQ, or statement of qualifications or the date of award of the contract? __ Yes ___ No    If yes, explain:____________________
                                                                                                  ____________________________
                                                                                                  ____________________________

3. Is your firm involved in pending investigation or criminal prosecution of a criminal offense alleged to have been committed in Comal County, Texas involving fraud, theft, bribery, kickbacks, or unlawful gifts to a public official? __ Yes ___ No If yes, explain:____________________
                                                                                                  ____________________________

4. Does your firm have pending claims, investigations, or civil litigation involving allegations of fraud, misrepresentation, or conversion? __ Yes ___ No If yes, explain: ____________________________

5. Does your firm have previous final judgments against the Library District for breach of contract, fraud misrepresentation or conversion? __ Yes ___ No If yes, explain:____________________
                                                                                                  ____________________________
                                                                                                  ____________________________

6. Has your firm failed to timely pay/remit sales tax, property tax, or utility payments to the Library District or Comal County? __ Yes ___ No If yes, explain:____________________
                                                                                                  ____________________________

7. Has your firm refused to execute a contract following an award by the Library District? __ Yes ___ No If yes, explain: ____________________________
                                                                                                  ____________________________
                                                                                                  ____________________________

8. Has your firm violated the anti-lobbying provisions in a current or previous Library District procurement process by making contact with a member of the Library District prior to the award of a contract? __ Yes ___ No If yes, explain: ____________________________
                                                                                                  ____________________________
                                                                                                  ____________________________
9. I hereby certify that I have read Form I, Conflict of Interest Questionnaire (CIQ), and I agree and understand that the failure to disclose a conflict of interest and/or the failure to sign and submit Form CIQ, even if no conflict exists, after an award of a contract, may result in cancellation of the contract. Acknowledge that you have read and understood that the District may not do business with your company without submittal of this form. ___ Yes ___ No

______________________________________________________
Authorized Signature

Representing to be _________________________________ of the Company.

Title

THIS FORM MUST BE SUBMITTED WITH YOUR SOQ
ATTACHMENT “C”
Terms and Conditions for Architect/Engineer Agreements

1. **Standards of Performance:**

   (a) The performance of all services by the Consultant under this Agreement will be by persons appropriately licensed or registered under State, local and Federal laws.

   (b) In performing all services under this Agreement, the Consultant will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under this Agreement.

   (c) Any provisions in this Agreement pertaining to the District’s review, approval and/or acceptance of written materials prepared by the Consultant and/or its subconsultants in connection with this Agreement will not diminish the Consultant’s responsibility for the materials.

   (d) The Consultant will perform all of its services in coordination with the District. The Consultant will advise the District of data and information the Consultant needs to perform its services, and the Consultant will meet with District representatives at mutually convenient times to assemble this data and information.

   (e) In performing all services under this Agreement, the Consultant will comply with all local, state and federal laws.

2. **District’s Responsibilities:**

   (a) The District will provide information to the Consultant regarding the District’s requirements for the Consultant’s services under this Agreement. The District will furnish the Consultant with copies of official District design standards and construction standards, and other data and information in the District’s possession needed by the Consultant, at the Consultant’s request.

   (b) The District will designate an authorized representative to act on the District’s behalf with respect to this Agreement. The District will examine documents and information submitted by the Consultant, and promptly render responses to the Consultant on issues requiring a decision by the District.

3. **Construction Administration Services:** During the construction phase of this project, the Consultant will:

   (a) Administer the construction services as set forth in the District’s construction contract documents. The Consultant will not pursue a course of conduct that might jeopardize any of the District’s rights under those documents. The Consultant may
permit minor deviations from the construction contract documents that do not affect the validity of performance bonds or violate federal, state or local laws.

(b) Be a representative but not an agent of the District, and advise and consult with the District and provide written progress reports and advice to the District; forward the District’s instructions to the construction contractor unless 1) the Consultant is unavailable in person or by telephone to issue instructions necessary for the proper progress and acceptance of work, 2) jeopardy to life and/or property exists, or 3) lack of instructions and/or unavailability of the Consultant will, in the District’s opinion, result in harm to the District, in which cases the District may forward instructions directly to the construction contractor; have authority to act on behalf of the District only to the extent provided herein and in the construction contract documents. The District will advise the Consultant of any instructions issued directly by the District to the construction contractor if the Consultant was unavailable at the time of issuance of the instructions.

(c) Make on-site professional inspections of the project to ensure familiarity with the progress and quality of the work, to determine if the work is proceeding in acceptable conformance with the construction contract documents, and to review the work with the District’s designated representatives. On the basis of these inspections, the Consultant will keep the District informed of the progress and quality of the work through written status reports. The Consultant will also be reasonably available to perform site visitations at the specific request of the District by the next business day after a request is made.

(d) Not have control or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, for the acts or omissions of the construction contractor, subcontractors or any other persons performing any of the work, or for the failure of any of them to carry out the work in accordance with the construction contract documents, unless the acts or omissions are due to the negligence of the Consultant or are acts or omissions under the Consultant’s control. However, the Consultant will exercise its authority on behalf of the District so that all work performed by the construction contractor results in a project completed in accordance with the construction contract documents. If the Consultant becomes aware of the construction contractor’s utilization of means, methods, techniques, sequences and/or procedures of construction which, in the Consultant’s opinion, will not result in completion of the project in accordance with the construction contract documents or which are unsafe, the Consultant will immediately inform the District and will take all necessary action which the Consultant is authorized to take under the construction contract documents to correct the matter.

(e) Determine the amounts owing to the construction contractor based on its on-site professional inspections and on evaluations of the construction contractor’s applications for payment, including comparisons of the construction contractor’s monthly cost reports with its applications for payment, and make recommendations for payment in these amounts, as provided in the construction contract documents, or take such other appropriate action which the Consultant deems necessary. The Consultant's
recommendations for payment will constitute a representation by the Consultant to the District based on the Consultant’s inspections and on the data comprising the construction contractor’s application for payment, that 1) the work has progressed to the point indicated, 2) the quality of the work is in acceptable conformance with the construction contract documents (subject to an evaluation of the work for conformance with the construction contract documents upon substantial completion, subject to the results of any subsequent tests required by or performed under the construction contract documents, subject to minor variations from the construction contract documents correctable prior to completion, and subject to any specific qualifications stated in the certificate for payment, and 3) the construction contractor is entitled to payment in the amount certified. However, the issuance of a certificate for payment will not be a representation that the Consultant has made any examination to ascertain how and for what purpose the construction contractor has used the monies paid by the District.

(f) Have authority to reject work which does not conform to the construction contract documents. Whenever it is necessary or advisable in the Consultant’s opinion for the proper implementation of the intent of the construction contract documents, and with the approval of the District, the Consultant will have authority to require special inspection or testing of the work in accordance with the construction contract documents, whether or not the work is then fabricated, installed or completed. The Consultant will review the work and results of all testing laboratories as required by the construction contract documents.

(g) Prepare minor changes in the plans and specifications as directed by the District; and prepare necessary change orders for approval by the District and execution in accordance with the construction contract documents. The Consultant will not issue change orders not previously approved in writing by District, and no course of conduct on the part of the Consultant or the District will amend, waive or alter this provision.

(h) Conduct professional inspections to determine the dates of substantial completion and final completion for the project, issue final certificates for payment or take other appropriate action, and make a written recommendation to the District regarding the District’s acceptance of the project.

(i) Review the completed Project with the District and the Contractor prior to the end of the one year warranty period and have all deficient items corrected. The extent of the duties, responsibilities and limitations of authority of the Consultant as the District’s representative during construction will not be modified or extended after the construction contract documents have been authorized by the District to be competitively bid without written consent of the District and the Consultant and with notice to the Contractor.

4. **Consultant’s Records:**
(a) All expense records of the Consultant will be kept on a recognized accounting basis acceptable to the District and will be available to the District at mutually convenient times. (applies only if the Consultant is to be reimbursed for any expenses)

(b) The District, its auditors and federal and state agencies that have monitoring or auditing responsibilities for this Agreement will have access to any books, documents, papers and records of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.

(c) The Consultant will furnish to the District at such time and in such form as the District may require, financial statements including audited financial statements, records, reports, data and information, as the District may request pertaining to the matters covered by this Agreement.

5. **Ownership and Use of Documents:**

   (a) All documents prepared by the Consultant in connection with this Agreement will become the property of the District whether any project related to this Agreement is executed or not.

   (b) The Consultant will retain all of its records and supporting documentation relating to this Agreement, and not delivered to the District, for a period of three years, except that in the event the Consultant goes out of business during that period, it will turn over to the District all of its records relating to the Project for retention by the District.

6. **Term; Termination of Agreement:**

   (a) The term of this Agreement begins upon its execution by the District, and will end upon the Consultant’s completion, and the District’s acceptance, of all services described in this Agreement.

   (b) This Agreement may be terminated by either party upon 15 days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

   (c) This Agreement may be terminated at will by the District upon at least 15 days prior written notice to the Consultant.

   (d) In the event of termination as provided in this Section, the Consultant will be compensated for all services performed to the termination date which are deemed by the District to be in accordance with this Agreement. This amount will be paid by the District upon the Consultant’s delivering to the District all information and materials developed or accumulated by the Consultant in performing the services described in this Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the District.
7. Insurance and Indemnity:

(a) The Consultant will hold harmless, indemnify and defend the District 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 Consultant, 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 District 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.

(b) The Consultant 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 Consultant or its agents, subcontractors or employees. Before commencing the work, the Consultant will furnish to the District a certificate or certificates in a form satisfactory to the District, showing that Consultant has complied with this paragraph. All certificates will provide that the policy will not be canceled until at least 30 days written notice has been given to the District, and will name the District as an additional insured on all coverages except workers’ compensation and professional liability. The kinds and amounts of insurance required are as follows:

   Workers’ Compensation Insurance: In accordance with the provisions of the Workers’ Compensation Act of the State of Texas.

   Liability Insurance: (1) Commercial general liability insurance with a combined single limit of $500,000 for each occurrence and $500,000 in the aggregate, (2) Motor Vehicle liability insurance in an amount not less than $250,000 for injuries to any one person, $500,000 on account of any one accident and in an amount of not less than $250,000 for property damage (3) professional liability coverage to cover lawful claims arising in connection with this Project in the combined single limit amount of at least $500,000.00.

(c) The stated limits of insurance required by this Paragraph are minimum only—they do not limit the Consultant’s indemnity obligation, and it will be the Consultant’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 District’s acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Consultant from compliance with these requirements.

8. No Waiver of Immunity:

The District’s execution of and performance under this Agreement shall not act as a waiver by the District of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the District, in executing and performing this Agreement, is a governmental entity acting in a governmental capacity.
9. **Remedies; No Waiver:** In the event of a default or breach of this Agreement by the Vendor, the District reserves the right to choose among the remedies for the default or breach available to the District. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the District. Any failure by the District to enforce this Agreement with respect to one or more defaults by the Vendor will not waive the District’s ability to enforce the Agreement after that time.

10. **Miscellaneous Provisions:**

(a) This Agreement is governed by the law of the State of Texas. Exclusive venue for any dispute arising under this Agreement is in Comal County, Texas.

(b) As to all acts or failures to act by either party to this Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.

(c) The Consultant agrees not to use funds received by it under the terms of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.

(d) The Consultant hereby affirms that Consultant and Consultant’s firm have not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional services to the District within the two years preceding the execution of this Agreement. A campaign contribution, as defined by the Texas Election Code or the District Code will not be considered as a valuable gift for the purposes of this Agreement.

(e) In performing the services required under this Agreement, the Consultant will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Consultant agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default of the Consultant of the Agreement.

(f) All references in this Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term “will” is mandatory in this Agreement.

(g) Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions
which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.

(h) All services provided pursuant to this Agreement are for the exclusive use and benefit of the District.

(i) The District is governed by the Texas Public Information Act (the “Act”), Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this agreement may be subject to release under the Act. The Consultant shall not make any reports, information, data, etc. generated under this Agreement available to any individual or organization without the written approval of the District.

(j) In the event that the performance by either the District or the Consultant of any of its obligations under this Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.

(k) The District and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The District and the Consultant may not assign, sublet or transfer any interest in this Agreement without the written consent of the other.

(l) This Agreement represents the entire and integrated Agreement between the District and the Consultant and supersedes all prior negotiations, representations or agreements either written or oral. Except as to a change in the scope of services, the compensation for which does not exceed $50,000.00, this Agreement may be amended only by written instrument approved by the District’s governing body and signed by both the District and the Consultant.

(m) Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein.

(n) In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to this Agreement, these Terms and Conditions will govern and control.
1. **Standards of Performance:**

   (a) The performance of all services by the Consultant under the Agreement will be by persons or persons under the supervision of persons appropriately licensed or registered under State, local and Federal laws.

   (b) In performing all services under the Agreement, the Consultant will use that degree of care and skill ordinarily exercised for similar projects by professional consulting firms who possess special expertise in the types of services involved under the Agreement.

   (c) Any provisions in the Agreement pertaining to the District's review, approval and/or acceptance of written materials prepared by the Consultant and/or its subconsultants in connection with the Agreement will not diminish the Consultant's responsibility for the materials.

   (d) The Consultant will perform all of its services in coordination with the District. The Consultant will advise the District of data and information the Consultant needs to perform its services and the Consultant will meet with District representatives at mutually convenient times to assemble this data and information.

   (e) In performing all services under the Agreement, the Consultant will comply with all local, state and federal laws.

2. **District's Responsibilities:**

   (a) The District will provide information to the Consultant regarding the District's requirements for the Consultant's services under the Agreement. The District will furnish the Consultant with copies of official District design standards and construction standards, and other data and information in the District's possession needed by the Consultant, at the Consultant's request. The District will provide this information and render decisions expeditiously for the orderly progress of the Engineer's services.

   (b) The District will designate an authorized representative to act on the District's behalf with respect to the Agreement. The District will examine documents and information submitted by the Consultant, and promptly render responses to the Consultant on issues requiring a decision by the District.

   (c) The District will be responsible for any other item listed specifically as the
District’s responsibility included in the contract or as identified in Attachment ______________, Scope of Work.

3. Request for Proposal Assistance:

(a) Assist the District in the distribution of the proposal documents to prospective proponents and the issuance of addenda (if any) following District’s prior approval.

(b) Assist the District in obtaining proposals, tabulating proposals, preparing proposals tabulation forms, and in awarding the contract for construction following the District’s approval of the construction contract documents and of the latest detailed final cost estimate of the Project.

(c) Assist the District in conducting the pre-proposals conference with potential proponents. During the pre-proposals conference, the Consultant will describe the scope of work; answer pertinent questions of potential proponents and District staff address requests for additional information and make all necessary clarifications and interpretations of the construction contract documents.

(d) Assist the District in reviewing all proposals, the Statement of Proponent’s Qualifications, financial statements of proponents, lists of proponent’s proposed subcontractors, and all other documents required to be submitted with the proposals for responsiveness and for proposal amount. Consultant will also verify through reasonable investigation the financial and performance history documentation submitted by the low proponent and second low proponent, and their references. The District will provide copies of all of the proposal documents to the Consultant within one day from the date of receipt of proposals. Within ten calendar days of receiving the proposal documents from the District, the Consultant will prepare a report of its review and evaluation, and include a written recommendation to the District for award of the contract for construction, or other action as may be appropriate. The District will make the final decision on the award of the construction contract and the acceptance or rejection of proposals. The Consultant will provide technical (but not legal) advice in proposal protest situations. Both the District and the Consultant assume that this Project will be proposal as one Project and neither party anticipates that it will be necessary to re-proposal the Project.

(e) Have no authority to issue a Notice to Proceed to any Contractor.

(f) Provide the District with two half size and two full size sets of conformed construction plans. Provide the Contractor with three half size and two full size sets of conformed construction plans at no additional cost to the District.

4. Construction Administration Services

During the construction phase of this project, the Consultant will:
(a) Administer the construction contract as set forth in the construction documents unless otherwise provided in this Agreement and incorporated in the construction contract documents. Consultant will not pursue a course of conduct, which might jeopardize any of the District’s rights hereunder. Minor deviations from the construction contract documents that do not affect the validity of performance bond(s) are permitted.

(b) Be a representative but not an agent of the District during the construction phase, and advise and consult with the District and provide progress reports and advice to the District in writing; serve as the District’s direct contact with the Contractor and forward the District’s instructions to the Contractor unless (1) Consultant is unavailable by telephonic communication or otherwise to issue instructions necessary for the proper progress and acceptance of work; (2) jeopardy to life and/or property exists; and/or (3) lack of instructions and/or unavailability of Consultant will result in, in District’s opinion, harm to District, in which case instructions may be forwarded directly to the Contractor by the District; have authority to act on behalf of the District only to the extent provided herein and in the construction contract documents unless otherwise modified by written instrument in accordance with the Consultant’s agreement with the District. The District will promptly advise the Consultant of any instructions issued directly by District to the construction Contractor if the Consultant was unavailable at the time of issuance of instructions.

(c) Assist the District in ensuring that all applicable permits and approvals have been obtained from the appropriate agencies prior to construction in accordance with the scope of work.

(d) Assist the District in conducting a pre-construction conference with the Contractor, members of District’s staff, representatives of affected utility providers, and federal and state agencies having jurisdiction over the Project (including District inspectors) in order to establish construction schedules and to identify key representatives of the parties and lines of communication. The Consultant will be responsible for providing an agenda and for keeping accurate minutes of this meeting. The Consultant will distribute minutes to the interested parties within five calendar days of the conference. The District will arrange for the location of the meeting.

(e) Make on-site inspections of the Project as often as required to ensure familiarity with the progress and quality of the work, to determine if the work is proceeding in acceptable conformance with the construction contract documents, and to review the work with the District’s designated representatives. On the basis of these inspections, by the Consultant, the Consultant will keep the District informed of the progress and quality of the work through written status reports and through meetings with the District’s representative. The Consultant will also be reasonably available to perform site visitations at the specific request of the
District by the next business day after a request is made.

(f) In performing all services, including inspections, not have control or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, for the acts or omissions of the construction contractor, subcontractors or any other persons performing any of the work, or for the failure of any of them to carry out the work in accordance with the construction contract documents, unless such acts or omissions are due to the negligence of the Consultant or are acts or omissions under the Consultant’s control. However, the Consultant will exercise its authority on behalf of the District in accordance herewith and particularly during the construction phase so that all work performed by the construction contractor results in a Project completed in accordance with the construction contract documents and during any phase should the Consultant become aware of the Contractor’s utilization of means, methods, techniques, sequences and/or procedures of construction which, in the Consultant’s opinion, will not result in completion of the Project in accordance with the construction contract documents or which are unsafe, the Consultant will immediately inform the District and will take all necessary action which the Consultant is authorized to take under the construction contract documents to correct the matter.

(g) At all times, have access to the work wherever it is in preparation or progress.

(h) Determine the amounts owing to the construction contractor based on its on-site professional inspections and on evaluations of the Contractor’s applications for payment, including comparisons of the construction contractor’s monthly cost reports with its applications for payment, and make recommendations for payment in these amounts, as provided in the construction contract documents, or take such other appropriate action which the Consultant deems necessary.

(i) Make recommendations for payment that constitute a representation by the Consultant to the District based on the Consultant’s inspections and on the data comprising the Contractor’s application for payment, that 1) the work has progressed to the point indicated, 2) the quality of the work is unacceptable conformance with the construction contract documents (subject to an evaluation of the work of conformance with the construction contract documents upon substantial completion, subject to the results of any subsequent tests required by or performed under the construction contract documents, subject to minor variations from the construction contract documents correctable prior to completion, and subject to any specific qualifications stated in the certificate for payment), and 3) the construction contractor is entitled to payment in the amount certified. However, the issuance of a certificate for payment will not be a representation that the Consultant has made any examination to ascertain how and for what purpose the Contractor has used the monies paid by the District.
(j) Have authority to reject work, which does not conform to the construction contract documents. Whenever, in the Consultant’s reasonable opinion, it is necessary or advisable for the proper implementation of the intent of the construction contract documents, and with the approval of the District, the Consultant will have authority to require special inspection or testing of the work in accordance with the provisions of the construction contract documents, whether or not such work is then fabricated, installed or completed. The Consultant will review the work and results of all testing laboratories as required by the construction contract documents.

(k) Review and make decisions regarding the approval or taking of other appropriate action upon the Contractor’s submittals, including, but not limited to, shop drawings, product data and samples, schedule of values and progress schedule. The Consultant will take such action with reasonable promptness, but generally not to exceed 15 calendar days or such period of time as will not cause delay of the Project.

(l) Prepare minor changes in the plans and specifications as directed by the District; and prepare necessary change orders in triplicate originals for approval by the District and execution in accordance with the construction contract documents. The Consultant will not issue change orders not previously approved in writing by the District, and no course of conduct on the part of the Consultant or the District will amend, waive or alter this provision.

(m) Answer 10 Requests for Information from the Contractor, which may include technical questions, clarifications and interpretations of the construction contract documents.

Conduct professional inspections to determine the dates of substantial completion and final completion for the Project, to evaluate the work for acceptable conformance with the construction contract documents and in light of any subsequent tests performed as referenced in the Section 4(i) to verify that any minor deviations from the construction contract documents as referenced in Section 4(i) have been corrected and that the reasons for any specific qualifications in any and all previous certificates for payment as described in the Agreement are either no longer valid or the condition(s) and/or problem(s) have been corrected. The Consultant will receive and review written warranties and related documents required by the construction contract documents and assembled by the Contractor; will issue final certificates for payment or take other appropriate action, and make a written recommendation to the District regarding the District’s acceptance of the project.

(n) Require the submission by the Contractor, and subcontractors performing work on the Project site, of periodic wage rate payment reports and, with the District’s assistance, verify compliance with federal and state wage rate requirements for the Project; and notice the District of any noncompliance, or of the failure by the
Contractor or subcontractors to make submissions.

(o) Prepare or cause to be prepared, and submit to the District a set of reproducible record drawings showing significant changes in the work made during the construction phase. The Consultant will submit two full-size hard copy record drawings to the District, as well as one CD containing electronic copies in PDF and CAD formats.

(q) Ensure that all notices and signs required and provided by the District are posted in appropriate locations at the Project site by the Contractor.

(r) Conduct a final inspection with the District and prepare a punch list prior to final acceptance by the District.

(s) Prior to the end of the one-year warranty period, review the completed Project with the District and the Contractor and have all deficient items corrected. The extent of the duties, responsibilities and limitations of authority of the Consultant as the District’s representative during construction will not be modified or extended after the construction contract documents have been authorized by the District to be competitively proposal without written consent of the District and the Consultant and with notice to the Contractor.

5. **Construction Cost**

(a) The construction cost will be the total cost or estimated cost to the District of all elements of the Project designed or specified by the Consultant.

(b) The construction cost will include at current market rates, including a reasonable allowance for overhead and profit, the cost of any equipment that has been designed, specified, selected or specially provided for by the Consultant, except that used materials and equipment will be included as if purchased new for the Project.

(c) Construction cost does not include the compensation of the Consultant and the Consultant’s subconsultants, or other costs which are the responsibility of the District as provided in Article 2.

(d) Evaluations of the District’s Project budget and detailed cost estimates, if any, prepared by the Consultant, will represent the Consultant’s best judgment as a design professional familiar with the construction industry. The District recognizes that the Consultant has no control over the cost of labor, materials or equipment, over the Contractor’s methods of determining proposal prices or over competitive bidding or market conditions.
(e) A fixed limit of construction cost for this Project will be established by the District’s representative after consulting with the Consultant. The Consultant will be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, and types of construction are to be included in the construction contract documents, to make reasonable adjustments in the scope of the Project and to include in the construction contract documents alternate proposals to adjust the construction cost to the fixed limit. The fixed limit of construction cost may be increased by the District.

(f) If the lowest bona fide proposal exceeds the Consultant’s most recent approved cost estimate established as a condition of this Agreement, the District will (1) give written approval of an increase in such fixed limit, (2) authorize re-issuing of the Project within a reasonable time, or (3) cooperate in revising the Project scope and quality to reduce the construction cost. During the development of the Project through the phases described by Article 1 of this Agreement and prior to the District’s final approval of construction contract documents, the Consultant will monitor the established probable construction cost in relation to the established fixed limit.

If necessary, the Consultant will implement construction cost savings measures or otherwise endeavor to limit probable construction cost to the level of available funds set by the District.

6. Consultant’s Records

(a) All expense records of the Consultant related to the Agreement will be kept on a recognized accounting basis acceptable to the District and will be available to the District at mutually convenient times. (applies only if the Consultant is to be reimbursed for any expenses).

(b) The District, its auditors and federal and state agencies that have monitoring or auditing responsibilities for the Agreement will have access to any books, documents, papers and records of the Consultant which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, copying and transcriptions.

(c) The Consultant will furnish to the District at such time and in such form as the District may require, financial statements including audited financial statements, records, reports, data and information, as the District may request pertaining to the matters covered by the Agreement. Information provided pursuant to this subsection will be held in strict confidence to the extent permitted by applicable law.
7. **Ownership and Use of Documents**

(a) All documents prepared by the Consultant in connection with the Agreement are the property of the District whether any project related to the Agreement is executed or not. District agrees such documents are not intended or represented to be suitable for reuse for another project by the District or others. Any such reuse by the District or those who obtained said documents from the District without written verification or adaptation by the Consultant will be without liability or legal exposure to the Consultant.

(b) The Consultant will retain all of its records and supporting documentation relating to the Agreement, and not delivered to the District, for a period of three years, except that in the event the Consultant goes out of business during that period, it will turn over to the District all of its records relating to the Project for retention by the District.

8. **Patent Fees and Royalties**

(a) If applicable, the Consultant will pay all license fees, royalties, and other costs incident to the use of any invention, design, process, product or device subject to a patent right or copyright held by others in performing the work or in the completed project.

(b) The Consultant will hold harmless, indemnify and defend the District, its officers, agents and employees from and against all claims, damages, losses and expenses, including attorney's and expert witness fees, arising out of any claim of infringement of a patent right or copyright in the performance of the work or the incorporation in the work of any invention, design, process, product or device.

9. **Consultant as Independent Contractor**

It is expressly agreed that the Consultant is an independent contractor, and not an employee, agent, partner or joint venturer with the District. The Consultant will not pledge or attempt to pledge the credit of the District.

10. **Designation of Consultant’s Contact Person**

The Consultant agrees to designate in writing a single contact person assigned to coordinate the Consultant’s performance of obligations under the Agreement. Any changes to this designation must be made by the Consultant in writing to the District.

11. **Breach**
The District will have the right to declare the Consultant in breach of the Agreement for cause when the District determines that this Agreement has not been performed in accordance with its written terms and conditions.

12. Term; Termination of Agreement

(a) The term of this Agreement begins on the effective date established on the first page of the Letter Agreement and will end upon the Consultant’s completion, and the District’s acceptance of all services described in this Agreement unless this Agreement is terminated under subsections (b) or (c) below. The terms of this Agreement will remain in full force and effect and the Consultant is responsible for all work included in this Agreement until the associated construction Project has been completed by the Contractor and accepted by the District except for the work referenced in Section 4(s) of this Agreement. The Consultant’s responsibility for work referenced included in Section 4(s) will survive the expiration of this Agreement until such time that the specified warranty period for this Project is complete in accordance with the construction contract.

(b) The Agreement may be terminated by either party upon 15 calendar days prior written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination. The Consultant will provide the District with at least a 30-calendar day period of opportunity to cure before the Consultant initiates termination.

(c) The Agreement may be terminated for convenience and without cause by the District upon at least 15 calendar days prior written notice to the Consultant.

(d) In the event of termination as provided in this Section, the Consultant will immediately discontinue any and all services under the Agreement at the District’s request. The Consultant will be compensated for all services performed to the termination date which are deemed by the District to be in accordance with the Agreement. This amount will be paid by the District upon the Consultant’s delivering to the District all information and materials developed or accumulated by the Consultant in performing the services described in the Agreement, whether completed or in progress. The expense of the reproduction of these items will be borne by the District.

13. Insurance and Indemnity

(a) The Consultant will hold harmless, indemnify and defend the District 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 wrongful acts, errors or omissions of the Consultant, 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 District 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 Consultant and/or its agents and/or employees. This obligation by the Consultant will not be limited because of the specification of any particular insurance coverage required under the Agreement.

(b) The Consultant will procure and maintain at its own expense insurance with insurance companies authorized to do business in the State of Texas, covering all operations under the Agreement, whether performed by the Consultant or its agents, subcontractors or employees. Before commencing the work, the Consultant will furnish to the District a certificate or certificates in a form satisfactory to the District, showing that the Consultant has complied with this paragraph. All certificates will provide that the policies will not be canceled until at least 30 calendar days prior written notice has been given to the District. Failure of the Consultant to demand a certificate or other sufficient evidence of full compliance with these insurance requirements or failure of the Consultant to identify a deficiency from the evidence that is provided as proof of insurance will not be construed as a waiver of the Consultant’s obligation to maintain the required insurance coverage specified herein. Commercial general liability and motor vehicle insurance will be written with the District as an additional insured and will be endorsed to provide a waiver of the carrier’s right of subrogation against the District. The kinds and amounts of insurance required are as follows:

Workers’ Compensation Insurance and/or Employer’s Liability: In accordance with the provisions of the Workers’ Compensation Act of the State of Texas and/or $500,000.00/$500,000.00 for Employer’s Liability.

Liability Insurance: (1) Commercial general liability insurance (standard ISO version) with a combined single limit of $1,000,000 for each occurrence and $1,000,000 in the aggregate, providing coverage for, but not limited to, bodily injury and property damage, premises/operations, products/completed operations, independent consultants as applicable. (2) Business Motor Vehicle liability insurance (standard ISO version) in an amount not less than $1,000,000 per occurrence (3) professional liability coverage to cover lawful claims arising in connection with the Project in the combined single limit amount of at least $1,000,000.00 as applicable.
(c) The stated limits of insurance required by this Section are **minimum only**—they do not limit the Consultant’s indemnity obligation, and it will be the Consultant’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 District’s acceptance of certificates of insurance that do not comply with these requirements in any respect does not release the Consultant from compliance with these requirements.

14. **No Waiver of Immunity**

The District’s execution of and performance under the Agreement will not act as a waiver by the District of any immunity from suit or liability to which it is entitled under applicable law. The parties acknowledge that the District, in executing and performing the Agreement, is a governmental entity acting in a governmental capacity.

15. **Remedies; No Waiver.**

In the event of a default or breach of the Agreement by the Consultant, the District reserves the right to choose among the remedies for the default or breach available to the District. These remedies may be used in conjunction with one another or separately, and together with any other statutory or common law remedies available to the District. Any failure by the District to enforce the Agreement with respect to one or more defaults by the Consultant will not waive the District’s ability to enforce the Agreement after that time.

16. **“Green” Procurement**

It is the District’s intent to be proactive with regard to the environment. The District encourages “Value Purchasing” of environmentally friendly products. The Consultant is encouraged to identify and utilize green solutions in performing any services under the Agreement, as appropriate.

17. **Funding Out**

If applicable to this Project, the Consultant understands that funds for the payment for work performed by the Consultant under the Agreement have been provided through the District’s budget approved by District Board for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The District cannot guarantee the availability of funds, and enters into the Agreement only to the extent such funds are made available. The Consultant acknowledges and agrees that it will have no recourse against the District for its failure to appropriate funds for the purposes of the Agreement in any fiscal
year other than the year in which the Agreement was executed. The fiscal year for the District extends from July 1st of each calendar year to June 30th of the following calendar year.

18. Safety

The work to be performed under this contract will be performed entirely at the Consultant’s risk. The Consultant will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work to be performed under this contract. The Consultant will take all reasonable precautions for the safety of and will provide all reasonable protection to prevent damage, injury, or loss to employees, the work, the endangered species, or the property affected by this contract. All damage or loss to any property caused in whole or in part by the Consultant, any subcontractor, or anyone directly or indirectly employed by any of them will be remedied by the Consultant.

19. Notice

As required under the Agreement, notice will be delivered in writing to the parties at the following locations:

To the District:

Canyon Lake Library District
Library Director
16311 S Access Road
Canyon Lake, Texas 78133

To the Consultant:


20. Taxes

The Consultant will not include Federal taxes or State of Texas limited sales excise and use taxes in its invoices or vouchers and statement of costs. The District is exempt from payment of such taxes and the Consultant may retrieve a resale certificate for use on this Project from the State of Texas Comptroller’s website.


(a) The Agreement is governed by the law of the State of Texas. The Agreement is
to be performed in Comal County and exclusive venue for any dispute arising under the Agreement is in Comal County, Texas.

(b) As to all acts or failures to act by either party to the Agreement, any applicable statute of limitations will commence to run and any alleged cause of action will be deemed to have accrued when the party commencing the cause of action knew or should have known of the existence of the subject act or failure to act.

(c) The Consultant agrees not to use funds received by it under the terms of the Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.

(d) The Consultant hereby affirms that neither the Consultant, the Consultant’s firm nor any of its associates or employees have made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of his/her immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional services to the District within the two years preceding the execution of the Agreement. A campaign contribution, as defined by the Texas Election Code or the District Code will not be considered as a valuable gift for the purposes of the Agreement. The Consultant further agrees that none of its paid personnel will be employees of the District or have any contractual relationship with the District. All activities, investigations, and other efforts made by Consultant pursuant to the Agreement will be conducted by employees, associates, or independent contractors of the Consultant.

(e) In performing the services required under the Agreement, the Consultant will not discriminate against any person on the basis of race, color, religion, sex, national origin, age, disability or ancestry. The Consultant agrees not to engage in employment practices which have the purpose or effect of discriminating against employees because of race, color, sex, religion, national origin, age, disability or ancestry. A breach of this covenant may be regarded as a default of the Consultant of the Agreement.

(f) All references in the Agreement to any particular gender are for convenience only and will be construed and interpreted to be of the appropriate gender. The term “will” is mandatory in the Agreement.

(g) Should any provision in the Agreement be found or deemed to be invalid, the Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of the Agreement are declared to be severable. Paragraph and Section headings included in the Agreement are for convenience only and are not intended to define or limit the scope of any provisions of the
(h) All services provided pursuant to the Agreement are for the exclusive use and benefit of the District and the Agreement will not give rise to any rights in third parties.

(i) The District of is governed by the Texas Public Information Act (the “Act”), Chapter 552 of the Texas Government Code. The Agreement and all written information generated under the Agreement may be subject to release under the Act. The Consultant will not make any reports, information, data, etc. generated under the Agreement available to any individual or The organization without the written approval of the District.

(j) In the event that the performance by either the District or the Consultant of any of its obligations under the Agreement is interrupted or delayed by events outside of their control such as acts of God, war, riot or civil commotion, then the party is excused from such performance for the period of time reasonably necessary to remedy the effects of such events.

(k) The District and the Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of the Agreement. The District and the Consultant may not assign, sublet or transfer any of their rights or delegate or subcontract any of their duties under or interest in the Agreement in whole or in part, without the written consent of the other. Any work or services subcontracted under the Agreement will be specified by separate written agreement and will be subject to each provision of the Agreement. The Consultant will notify the District, in writing, of any change in its partnership/ownership within 30 calendar days of such change.

(l) The Consultant, will complete the work in accordance with the schedule negotiated with the District and the Consultant, has taken into consideration and made allowance for all hindrances and delays incident to such work, whether growing out of delays in securing material, workers, weather or otherwise. No charge will be made by the Consultant for any hindrance or delay from any cause whatever during the progress of any portion of its work contemplated by the specifications, but the District may grant an extension of time for the completion of the work, provided it has satisfied that such delays or hindrances were due to extraordinary causes or to the acts of omission or commission by the District. It is agreed that the granting of such extensions of time will in no instance exceed the time actually lost by Consultant for reason of such causes, provided that the Consultant will give the District immediate notice in writing of the cause of the
detention or delay. Any such extension of time will be provided utilizing the District’s Authorization of Change in Services form included as Attachment C.

(m) The Agreement including any appendices and referenced attachments or exhibits represents the entire and integrated Agreement between the District and the Consultant and supersedes all prior negotiations, representations or agreements either written or oral. In the event of a dispute between the parties regarding the intent of the Agreement, both parties agree that the Agreement will be construed in a manner consistent with the District’s Request for Proposals, the Consultant’s Proposal Response, and the public record of the District Board’s approval of the Agreement as applicable. The Agreement may be amended only by written instrument, which must be signed by both the District and the Consultant. The District Library Board must approve any such authorization of change in services or amendment if it results in a change, the compensation for which exceeds $50,000.00.

(n) Any exhibits and/or attachments attached to the Agreement are incorporated by reference into the Agreement as though included verbatim herein. In the event of any conflict between these Terms and Conditions and the provisions of any exhibit or attachment to the Agreement, these Terms and Conditions will govern and control.
EXHIBIT “A”
Authorization in Change of Services