



SOLICITATION AND OFFER

City of New Braunfels
Purchasing
550 Landa Street
New Braunfels, Texas 78130

Solicitation Number: RFQ 21-011

**Request for Qualifications (RFQ) for Creation
of Unified Development Code for the City of
New Braunfels, Texas**

Invitation for Bid (IFB)
 Request for Qualifications (RFQ)

Date Issued:
March 25, 2021

SOLICITATION

Respondents must submit sealed Statement of Qualifications (SOQ) containing one (1) signed original hardcopy and one (1) in electronic format (USB). Electronic Bid submissions do not require original hardcopy and USB to be submitted.

Questions concerning RFQ must be received, by email only, prior to **5:00P.M. CT on April 8, 2021**.

Qualifications will be received at the Office of the City Secretary at the address shown above until: **3:00 P.M. (CT), April 29, 2021**.

There will be no public bid opening. Qualifications received after the time and date set for submission will be returned, unopened, upon request.

For information regarding this solicitation, contact: (NO collect calls, Telegraphic, Email, On-Line or Fax offers accepted)	Debbie Kimball Purchasing Buyer	Email: DKimball@nbtxas.org
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5% Proposal Bond Required: YES NO

100% Payment Bond Required: YES NO

100% Performance Bond Required: YES NO

OFFER

(This portion must be fully completed by Proposer.) Respondent will comply with the General Terms and Conditions required by the City of New Braunfels.

In compliance with the above, upon contract award the undersigned offers and agrees to furnish any or all items or services awarded for each item delivered at the designated point(s) and within the time specified herein.

CONTRACT AWARD SHALL INCLUDE ALL ASSOCIATED SOLICITATION DOCUMENTS, ATTACHMENTS AND ADDENDA.

SIGNATURE IS MANDATORY; **MANUALLY SIGN** ORIGINAL DOCUMENT, SIGNATURE SHOULD ALSO BE REFLECTED ON USB COPY.

1) Respondent's State of Residence: _____
2) State Contractor's License Number, If Applicable: _____

Name and Address of Respondent:	Name and Title of Person Authorized to Sign Offer: E-Mail Address: Phone Number: Fax Number:
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Signature: _____ Date: _____

Name, Address and Telephone Number of
Person authorized to conduct negotiations on
behalf of Respondent.

(Applies to Request for Qualifications only)

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SECTION 3

CONTRACT TERMS AND CONDITIONS

This section will apply to the firm ultimately invited to submit a cost proposal and to negotiate a contract. These terms and conditions are presented for your agreement or your opportunity to take exception. Your response to these terms will be the basis for beginning contract negotiations should your firm be selected to submit a cost proposal.

3.1 CONTRACT TERM

This contract shall begin upon the effective June 1, 2021, or the begin date specified in contract award, whichever is later, through February 28, 2023.

3.2 CONTRACT CHANGES

The City Purchasing Representative may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any of the following:

- a) Description of services to be performed
- b) Time of performance (i.e. hours of day, days of week, etc.)
- c) Place of performance of the services
- d) Correction of errors of a general administrative nature or other mistakes, the correction that does not affect the scope of the contract or does not result in expense to the Contractor.

If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract, whether or not changed by the order, the City will make an equitable adjustment in the contract price, the delivery schedule, or both, and will modify the contract. The Contractor must submit any "Proposal for adjustment" under this clause within 30 days from the date of receipt of the written order. However, if the City decides that the facts justify it, the City may receive and act upon a Proposal submitted before final payment of the contract.

3.3 DESIGNATED CITY HOLIDAYS

No deliveries or services will be required or accepted, unless specific prior arrangements have been made, on designated holidays as per the City's approved holiday schedule.

<u>2021 HOLIDAYS</u>		
New Year's Day	Friday	January 1, 2021
Martin Luther King, Jr. Day	Monday	January 18, 2021
President's Day	Monday	February 15, 2021
New Braunfels Founder's Day	Friday	April 2, 2021
Memorial Day	Monday	May 31, 2021
Independence Day	Monday	July 5, 2021
Labor Day	Monday	September 6, 2021
September 11 Remembrance Day (Uniform Fire Dept. Personnel Only)	Friday	September 10, 2021
Comal County Fair Day (Excluding Uniform Fire Dept. Personnel)	Friday	September 24, 2021
Thanksgiving Day	Thursday	November 25, 2021
Day after Thanksgiving	Friday	November 26, 2021
Christmas Eve	Friday	December 24, 2021

3.4 CONTRACT

The contracted firm will be selected based on the highest final score and any other criteria as outlined within the RFQ. In the event that negotiations are conducted, and an agreement cannot be reached, the City reserves the right to enter into negotiations with the next highest ranked proponent without the need to repeat the formal solicitation process. After negotiation with the top-ranked proposer and upon staff recommendation, a contract will be defined, and an award recommendation will be presented to the New Braunfels City Council. The New Braunfels City Council will approve the final award of a contract for the services to be performed in accordance with this RFQ. Submission of a SOQ indicates acceptance by the firm of the conditions contained in this request for qualifications unless clearly and specifically noted in the SOQ submitted and confirmed in the contract between the City of New Braunfels and the firm selected. The City of New Braunfels reserves the right without prejudice to reject any or all Statements of Qualifications.

Refer to Attachment C to view sample City of New Braunfels' Professional Services Agreement to be signed by both parties if awarded a contract through this solicitation.

3.5 ELEMENTS OF CONTRACT

1. **RFQ.** This Request for Qualifications is an invitation for individuals and companies to submit Statements of Qualifications (SOQs) only.
2. **SOQ.** The submittal of a Statement of Qualifications (SOQ) by a firm or individual is an indication of the ability of the firm or individual to perform the requested services.
3. **UDC.** Unified Development Code.
4. **Award is Acceptance.** The selection of a firm and award of a professional services agreement by the New Braunfels' City Council based upon acceptance on the part of the City, thereby resulting in a binding agreement between the City and the selected firm or individual.
5. **Consideration.** Consideration consists of the services to be performed under the contract awarded in exchange for compensation, based upon a final negotiated price, to be paid by the City to the selected firm.
6. **Agreement; Exceptions.**
 - a. Submission of a SOQ is a representation by a submitter that the submitting firm or individual agrees to the terms, conditions, and other provisions contained in the RFQ, unless the submitter clearly and specifically presents in its SOQ any exceptions to the terms, conditions, and other provisions contained in the RFQ.
 - b. Exceptions presented in a SOQ are not to be considered incorporated into the agreement between the City and the selected firm or individual unless and until the City agrees to accept such exceptions.
 - c. The selected firm must acknowledge and agree that the negotiated agreement resulting from this RFQ includes the terms, conditions, and other provisions contained in the RFQ, the SOQ selected (including any exceptions accepted by the City) which is acceptable to the City and is not in conflict or contravention of the RFQ, and any other documents mutually agreed upon by the City and the selected firm. Said terms and conditions shall be applicable during the entire contract term.

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- d. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFQ or the resulting negotiated contract.

3.6 RIGHT TO TERMINATE; NOTICE REQUIREMENT

The City reserves the right to terminate the contract with the selected Firm for any reason or for no reason (without cause) during the term of the contract, or during any renewal, extension or amendment, by giving thirty (30) days written notice of such intention to terminate the contract to the selected submitter.

3.7 SELECTED FIRM OBLIGATION TO MAKE REPORTS

The Firm selected and awarded an agreement under this RFQ shall be obligated as follows:

- a. The selected Firm shall advise the City of errors or other discrepancies coming under observation during the progress of the services performed under the contract.
- b. The selected Firm shall submit monthly reports to the City's designated contract manager.

3.8 Assignment; Transfer. The selected Firm shall not sell, assign, transfer, or convey any contract or other benefits resulting from this RFQ, in whole or in part, without the prior written consent of the City.

3.9 FORCE MAJEURE

- a. In the event performance by the selected Firm of its obligations under this contract shall be interrupted or delayed by or as a consequence of a fire, flood, or other act of God, war, insurrection, civil disturbance, or act of state, the selected Firm shall be excused from such performance for the period of time such occurrence shall have lasted or such period as is reasonably necessary to rebuild or take other action necessary to resume performance. The period of time reasonably necessary to rebuild or take other action necessary to resume performance shall be as determined by the agreement of the parties, which agreement shall be negotiated and arrived at in good faith.
- b. Selected Firm shall notify the City of any matter covered above, the occurrence of which interferes or threatens to interfere with the performance of any of its obligations under the contract. Upon such notice, the selected Firm and the City shall consult and cooperate as to measures which may be taken to overcome the interference or as to alternative measures which may be undertaken by the parties with a view to the continued performance of the contract.

3.10 INSURANCE AND LIABILITY

During the period of this contract, Contractor will maintain at his expense, insurance with limits not less than those prescribed below. Contractor further agrees to indemnify, defend, and hold City of New Braunfels harmless from any and all causes of action arising from this contract. With respect to required insurance, Contractor will:

1. Name City of New Braunfels as additional insured/or an insured, as its interests may appear.
2. Provide City of New Braunfels a waiver of subrogation. Contractor's workers' compensation, employers' liability, commercial automobile liability, CGL, excess liability, professional liability, and builder's risk insurance policies will be endorsed to waive all rights of subrogation in favor of the Owner Group. With respect to all such policies, Contractor waives any and all rights of recovery or subrogation against the Owner Group.

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3. Provide City of New Braunfels with a thirty (30) day advance written notice of cancellation or material change to said insurance.
4. Provide a Certificate of Insurance evidencing required coverage within ten (10) days after receipt of Notice of Award to the City's Finance Department, to the attention of the Purchasing Representative noted on Page 1 of this solicitation.
5. Submit a certificate of insurance reflecting coverage as follows:
 - a. Automobile Liability

Bodily Injury/Property Damage	-	\$1,000,000
(combined single limit, each incident		
Personal Injury Protection (PIP)	-	\$ 5,000
 - b. Commercial General Liability (Including Contractual Liability)

General Aggregate	-	\$1,000,000
Products/Completed Operations Aggregate	-	\$1,000,000
Each Occurrence	-	\$ 500,000
Personal/Advertising Injury	-	\$ 500,000
Medical Payments (Any One Person)	-	\$ 5,000
Property Damage	-	\$ 100,000
 - c. Professional Liability Errors and Omissions

Per Occurrence	-	\$ 300,000
Aggregate	-	\$ 500,000
 - d. Worker's Compensation

Employers Liability	-	As Statutorily required
Each Accident	-	\$1,000,000
Policy Limit by Disease	-	\$1,000,000
Each Employee by Disease	-	\$1,000,000

ACTUAL FINALIZED INSURANCE COVERAGE WILL ONLY BE REQUIRED OF THE SELECTED PROPOSAL. PROPOSALS CAN SEND THEIR CERTIFICATE OF INSURANCE "FOR INFORMATION PURPOSES ONLY" WITH THEIR PROPOSAL.

3.11 PAYMENT AND INVOICING REQUIREMENTS

(a) Payments. Payments will be made by check or warrant by City upon satisfactory delivery of services and submission and acceptance of Contractor's INVOICE to the address below, or as indicated on Purchase Order.

ACCOUNTS PAYABLE Email Address: AccountingTechnicians@nbtexas.org
550 LANDA STREET
NEW BRAUNFELS, TEXAS 78130
Phone Number: (830) 221-4380

1. All payment terms will be "Net 30 Days" unless otherwise specified in the solicitation.
2. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
3. The City may withhold or set off the entire payment or part of any payment otherwise due the Vendor to such extent as may be necessary on account of:
 - a. Reasonable evidence that the Vendor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

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- b. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- (b) Invoices. The City agrees to pay all approved invoices Net Thirty (30) days from the date received and approved. The City does not agree to the payment of late charges or finance charges assessed by the vendor for any reason.

Vendor must provide adequate detail on invoice for the City to review and approve. The City reserves the right to request and receive additional detail when needed. The following data shall accompany monthly invoices:

 1. Date(s) of Service and Locations Serviced
 2. Contract Number
 3. Any other data sharing as required by the Agreement.
- (c) Assign Payment. In a contract award exceeding Five Thousand Dollars (\$5000.00), you may assign payment to a bank, trust company or other financing institution, including any Federal lending agency by prior written approval and authorization through the City Manager's Office. Payment by City can be made only to one party. Assignments that do not conform to these terms will not be recognized.
- (d) Novation/Name Change. If you change your name or ownership (NOVATION), notify the City's Purchasing Representative immediately. The change must be approved by the City Manager before any change can be recognized in the contract.

3.12 INDEPENDENT CONTRACTOR

The selected Firm will be an independent contractor under the contract. Professional services provided by the selected Firm shall be by the employees or authorized subcontractors of the selected Firm and subject to supervision by the selected Firm, and not as officers, employees or agents of the City. Selected Firm will be required and agrees to comply with all state and federal employment laws as well as all other federal, state and local laws, rules and regulations affecting the performance of all obligations taken herein.

3.13 SUSTAINED DAMAGES

In the event the City terminates the awarded contract for any reason, the selected Firm shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the contract by the selected Firm or otherwise, and the City may withhold any payments to the selected Firm for the purpose of an offset until such time as the amount of damages due the City from the selected Firm can be determined.

3.14 CONFIDENTIALITY OF DOCUMENTS

- a. ALL STATEMENTS OF QUALIFICATION SUBMITTED WILL BE SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT.
- b. In the event a request for public information is filed with the City, which involves a Firm proprietary information submitted to the City in a proposal, the Firm affected by such public information request will be notified by the City of the request in order to give the affected Firm an opportunity to respond to the request.

- c. On each page where confidential information appears, the Firm must label the confidential information. Failure to so label the confidential information shall be considered as a waiver of any confidentiality rights or interests by said Firm.
- d. Marking your entire SOQ **CONFIDENTIAL/PROPRIETARY is not** in conformance with the Texas Open Records Act.

3.15 SUBCONTRACTING PROPOSAL

If subcontracting with another company or an individual on this project, this must be identified in your proposal, and the subcontractor's credentials must be submitted with your proposal for the City's review and evaluation consideration.

3.16 INDEMNIFICATION

Consultant hereby agrees to protect, indemnify and hold harmless the City, their officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of Consultant, its officers, employees, servants, agents or subcontractors, or anyone else under Consultant's, direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of any work or services called for by this Agreement, or from conditions created by the performance or non-performance of said work or services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, Consultant shall be obligated to indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

Consultant is not responsible for the actions of the City's contractor to perform the construction of the improvements covered under this Agreement.

Acceptance and approval of firm's documents received by the City shall not constitute nor be deemed a release of this responsibility and liability of Consultant, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the CITY for any defect in the designs, working drawings and specifications, or other documents prepared by Consultant, its employees, contractor, agents and consultants.

Consultant agrees that it is an independent contractor and not an agent of the City, and that Consultant is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve City of any responsibility or liability from treating Consultant's employees as employees of City for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. Consultant further agrees to indemnify and hold City harmless and reimburse it for any expenses or liability incurred under said Statutes in connection with employees of Consultant.

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Consultant shall defend and indemnify Indemnitees against and hold City and the premises harmless from any and all claims, suits or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred by Consultant in performing this Agreement.

3.17 MISCELLANEOUS

- a. All costs directly or indirectly related to the preparation of a response to this SOQ shall be the sole responsibility of and shall be borne by the firm.
- b. During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from Firm, or to allow corrections of errors or omissions.
- c. The City reserves the right to retain all proposals submitted and to use non-confidential information in a SOQ regardless of whether or not that SOQ is selected.
- d. Each SOQ shall state that it is valid for a period of one hundred twenty (120) days from the date of opening of the SOQ by the City.

3.18 NON-NEGOTIABLE TERMS

The following terms or conditions are not negotiable:

- a. **Unfunded Liability.** The City will not incur a debt or obligation to pay selected Firm any amounts the City does not have the current funds available to pay, unless the contract includes a provision for the City to appropriate funding for the debt or obligation.
- b. **Advance Payments.** The City will not make advance payments to a selected Firm or any third party pursuant to this RFQ or resulting contract.
- c. **Gift of Public Property.** The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Firm.
- d. **Procurement Laws.** The City will not agree to any terms or conditions that cause the City to violate any federal, Texas, or local procurement laws, including its own charter.
- e. **Limitation of Liability.** The City will not agree to allow the selected Firm to limit its liability for breach or default of contract to the contract amount or to the amount the City has paid up to the time of the breach or default.
- f. **Attorney's fees; Legal Costs.** The City will not agree to pay the selected Firm attorney's fees or other legal costs under any circumstances.
- g. **Delinquent Payments; Interest.** The City will not consider a payment delinquent, which is made within 30 days of receipt of the selected Firm's approved invoice, in accordance with Texas law. If the City does not pay what is due and owing within the 30 days, the City will not agree to pay more than 1% interest per month on the overdue amount, in accordance with Texas law.
- h. **Venue; Applicable Law.** This RFQ and any resulting contract will be governed and construed according to the laws of the State of Texas. The terms and conditions of the contract awarded pursuant to the RFQ are fully performable in Comal County, Texas and venue for any dispute regarding contract shall be in Comal County, Texas.

3.19 CONFLICT OF INTEREST QUESTIONNAIRE (FORM CIQ)

In accordance with Chapter 176 of the Texas Local Government Code, “Disclosure of Certain Relationships with Local Government Officers,” persons, or their agents who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a **Conflict of Interest Questionnaire (Form CIQ)** with the City Secretary if the vendor has a business relationship as defined by Section 176.001(1-a) with the City and the vendor meets requirements under Section 176.006(a).

Form CIQ is available from the Texas Ethics Commission by accessing the following web address:
https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm

The Conflict of Interest Questionnaire (Form CIQ) is required to be filed within 7 business days of:

- a. Beginning of discussions or negotiations to enter into a contract with the City; or
- b. Submission of an application, response to a request for qualifications correspondence or other writing related to a potential agreement with the City.

If requested in the solicitation document, all Respondents are to submit a completed Conflict of Interest Questionnaire (Form CIQ) with their response **in addition to** submitting a completed Form CIQ to the office of the City Secretary located at 550 Landa Street; New Braunfels, Texas 78130.

3.20 CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

A proponent that will be awarded a contract that is greater than \$25,000 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 copy of the form to the City prior to the award of the contract. A contract, including a City-issued purchase order, will not be enforceable or legally binding until the City receives and acknowledges receipt of the properly completed Form 1295 from the vendor.

SECTION 4
INSTRUCTIONS FOR PROPOSAL

4.1 AVAILABLE DOCUMENTS

Solicitation documents may be obtained from:

- the BidNet Direct website: <https://www.bidnetdirect.com/texas/city-of-new-braunfels>
- the City of New Braunfels' website: <http://nbtexas.org/DocumentCenter/Home/Index/139>
- or upon request by email: DKimball@nbtexas.org

Questions relating to definitions, interpretations, and/or requests for clarification must be in writing and directed to: DKimball@nbtexas.org

4.2 SUBMISSION OF PROPOSALS

(a) Electronic Bidding. The City of New Braunfels has partnered with its third-party vendor, Texas Purchasing Group (BidNet Direct) as its e-procurement site. For this Request for Qualifications, electronic bid submission is another option available to Proposers. The link to BidNet Direct website: <https://www.bidnetdirect.com/texas/city-of-new-braunfels>.

You must register on their site prior to your electronic submission. If you have any problems completing your vendor registration or submitting your electronic bid, please contact BidNet at (800) 835-4603, Option 2, to speak with live customer support.

If submitting an electronic bid through BidNet, an original hardcopy and USB will not be required.

(b) Deliver your Proposal, or changes to your Proposal, in SEALED ENVELOPES OR PACKAGES identified on outside as a Request for Proposal to Owner, with Respondent's name and address, and solicitation name. Failure to submit Proposal in this manner may subject Respondent to disqualification. **Proposal may be delivered in person to the New Braunfels City Hall, or by Express Mail or delivery service to:**

**City of New Braunfels
City Secretary's Office/Front Lobby
ATTN: Purchasing
550 Landa Street
New Braunfels, TX 78130**

The outside of the Proposal envelope or package must state:

**"RFQ 21-011 Request for Qualifications for Creation of Unified Development Code
for the City of New Braunfels, Texas
Proposal Due Date: April 29, 2021, 3:00 P.M. CT"**

It is the sole responsibility of the respondent to ensure timely delivery of the Proposal. Owner will not be responsible for failure of service on the part of the U.S. Post Office, courier services, or any other form of delivery service chosen by the respondent. **PROPOSALS RECEIVED AFTER THE CLOSING DATE AND TIME WILL NOT BE ACCEPTED OR CONSIDERED.**

(c) The Proposal shall contain evidence of Proposer's authority and qualification to do business in the State where the Project is located, or Proposer shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Proposal. Proposer's state Contractor license number, if any, shall also be shown on the Proposal Form.

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- (d) An authorized official of the firm must print or type their name and **MANUALLY SIGN THE ORIGINAL PROPOSAL, AND USB COPY MUST REFLECT THE SAME SIGNATURE.**
- (e) Proposals may not be withdrawn after the time set for the closing, unless approved by the City.
- (f) Your offer or a modification to your offer is LATE if received after the time set for Proposal opening and will not be considered.
- (g) If you need clarification or have any question as to the true meaning of specifications or any other document in the solicitation, your concerns must be submitted in writing to the City's Purchasing Representative, via email only, on or before seven (7) calendar days prior to scheduled opening of Proposals. Late requests will not be honored. Timely requests will be interpreted or otherwise clarified by issuance of an addendum to the solicitation distributed to all sources that received a set of the solicitation. No other interpretations or clarifications will be provided prior to award.
- (h) Prompt payment discounts **WILL NOT BE CONSIDERED** in determining low Proposal and making award. Prompt Payment Discounts offered by Proposer, and earned by the City, will be taken. When computing the DISCOUNT PERIOD for payments, time will begin upon satisfactory delivery of goods and/or submission of acceptable invoice, whichever is later. Partial payments will not be made unless specifically requested and approved by City prior to award of contract.
- (i) The following items request information that the Evaluation Committee will utilize to evaluate the Proposal. Failure to provide any of the information below may result in a Proposal being deemed non-responsive and therefore not considered in the selection process.

A firm wishing to be considered for a contract is requested to submit on the firm's letterhead, a statement which provides information on the following points, numbered and headed as indicated. The statements that follow request information that the Evaluation Committee will use to evaluate the RFQ. Should you opt not to follow the suggested outline, it may result in the SOQ being considered non-responsive and therefore not considered in the selection process.

To achieve a uniform review process and to obtain a maximum degree of comparability, the City of New Braunfels requires that Proposals be submitted with **one (1) original master (marked 'original'), and one signed USB electronic copy of all documents listed below.** If submitting an electronic bid through BidNet, an original hardcopy and USB will not be required.

Each Proposal completed and signed by person(s) authorized to bind individual, partnership, firm, corporation, or any other legal entity, will include the following in one envelope/package:

- **TAB 1 Solicitation and Offer Form:** Complete and sign form located on Page 1.
- **TAB 2 Acknowledgment of any Addendum issued on this solicitation,** if applicable.
- **TAB 3 Cover Letter** - Name and address of the Respondent, as well as a brief description of the company and its history, and how this makes the Proposer qualified for this bid.
- **TAB 4 should contain the following documents:**
 - a. **Certificate of Insurance** One copy completed and signed (Refer to Section 3.10). **A "for information purposes only" copy is acceptable.** The awarded Contractor will be required to provide their certificate of insurance prior to contract award.

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- b. **Conflict of Interest Questionnaire** (per Section 3.19) Must be filed with the City Secretary IF the vendor has a business relationship as defined by Section 176.001(1-a) with the City and the vendor meets requirements under Section 176.006(a).
- c. **Certificate of Interested Parties - Form 1295** (Refer to Section 3.20) This form will be requested from the awarded Contractor(s).

- **TAB 5 Qualifications and Experience of Company** (Refer to Section 5.2 for details) include consultant profile, project team, relevant experience, work plan, planned approach and timeline/project schedule, quality control. Also include **ATTACHMENT A – COMPANY INFORMATION; and ATTACHMENT B – RESPONDENT CERTIFICATIONS** to your proposal to support Qualification and Experience of Company criteria. **Failure to submit Attachments A and B will deem your proposal non-responsive.**
- **TAB 6 Additional Supporting Documentation** Attach copies of contractor's license, certifications, or any other documentation not referenced under another tab.
- **TAB 7 Deviations from Request for Proposal** Proposer is to indicate any deviations being offered in lieu of specified language referenced in the solicitation. Each deviation should be clearly identified as listed within the RFQ for cross reference purposes. The terms may be negotiated as part of the negotiation process with the exception of contract provisions that are non-negotiable. Final approval and acceptance of deviations will be at the discretion of the City.

4.3 PROPOSED SOLICITATION SCHEDULE

DATE	MILESTONE
March 25, 2021	RFQ issued on https://www.bidnetdirect.com/texas/city-of-new-braunfels and http://nbtexas.org/DocumentCenter/Home/Index/139
April 8, 2021	Deadline to receive questions shall be 5:00 P.M.
April 29, 2021	Statement of Qualifications submission deadline – 3:00 P.M.
May/June, 2021	City Council considers award of qualifications

4.4 CONTACT FOR QUESTIONS

All *questions* concerning this solicitation shall be in writing, on or before **April 8, 2021**, to:

Purchasing Representative: Debbie Kimball, Purchasing Buyer, via email dkimball@nbtexas.org

All questions and/or clarification submittals shall identify the RFQ in the subject line of the email message as follows:

Questions – RFQ 21-011 Request for Qualifications for Creation of Unified Development Code for the City of New Braunfels, Texas

All prospective respondents are hereby instructed to not contact any member of the City of New Braunfels' City Council, City Manager, evaluation committee, or City of New Braunfels' staff members other than the noted contact person regarding this solicitation on page 1. Any such contact may be cause for rejection of your Proposal.

4.5 RESPONSES TO QUESTIONS/INQUIRIES

Responses to questions/inquiries that directly affect an interpretation or change to this RFQ will be issued in writing by Purchasing as an addendum and posted at <https://www.bidnetdirect.com/texas/city-of-new-braunfels> and the City's website <http://nbtexas.org/DocumentCenter/Home/Index/139>. All such addenda issued by the Purchasing Representative before the time that SOQs are received shall be considered part of the RFQ.

Only those inquiries the Purchasing Office replies to by addenda shall be binding. Oral and other interpretations or clarifications will be without legal effect.

Respondents shall be responsible for monitoring the City's website at <http://nbtexas.org/DocumentCenter/Home/Index/139> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancelations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.

4.6 SOLICITATION UPDATES

Respondents shall monitor the BidNet Direct website (<https://www.bidnetdirect.com/texas/city-of-new-braunfels>) and the City's website (<http://nbtexas.org/DocumentCenter/Home/Index/139>) for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancelations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. It is the Respondent's responsibility to change the websites for current changes to the Solicitation documents.

4.7 EXCEPTIONS AND DEVIATIONS

Any exceptions to the specifications or objectives of the solicitation document must be clearly stated in Respondent's Proposal.

4.8 COMPETITIVE PROPOSALS

Proposals will not be opened publicly to avoid disclosure of contents to competing respondents and kept confidential during the process of negotiation. However, all Proposals will be open for public inspection after award except for trade secrets and confidential information contained in the Proposals and identified as such by the Proposer. Marking the entire Proposal as confidential and/or proprietary is not in conformance with the Texas Open Records Act.

4.9 WHAT IS NOT ACCEPTED

A Statement of Qualifications submitted by facsimile transmission (FAX) or by electronic mail (EMAIL) will **NOT** be accepted. A Statement of Qualifications received **AFTER** the deadline (as stated above) for submitting the Statement of Qualifications will **NOT** be considered under any circumstances and will be returned unopened to the submitter.

SECTION 5 EVALUATION CRITERIA

5.1 SELECTION PROCESS

It is the intent of the City to make a single award on this solicitation, based on evaluation criteria listed in this solicitation and proposer's submitted proposal.

The evaluation team will rank Firms meeting the evaluation criteria and the requirements of the needed services outlined in the solicitation and as outlined in the respondent's proposal.

The Firm selected for award will be awarded an Agreement to provide services as specified.

5.2 EVALUATION CRITERIA

The City of New Braunfels will review all Statement of Qualifications (SOQs) submitted in response to this solicitation using the criteria presented below and rank each firm. The firm will be recommended for award by City Council based upon the published selected criteria noted below. The evaluation committee recommendations are subject to approval by the City of New Braunfels City Council.

5.2.1 Evaluation Standard; Evaluation Committee. A committee comprised of City of New Braunfels staff and potentially including board/commission members or other development stakeholders will evaluate the SOQs submitted. SOQs will be evaluated on evidence of understanding of the issues and challenges, the objectives to be achieved, and the technical and administrative capabilities in relation to the needs of the project. The following criteria are those that will be applied in the evaluation of the SOQ:

Evaluation Criteria:

- **10 Points: Completeness and Clarity of Proposal**

The consultant's ability to prepare a complete and clear submission is indicative of their abilities to do the same with the Unified Development Code.

- **10 Points: Understanding of the Community and State**

New Braunfels is a unique community and only a consultant who understands what makes the community special, and what is required to ensure that uniqueness is maintained, will be successful. Additionally, how well the consultant understands Texas' property rights focus and corresponding statutes that impact municipal land use and platting authority, as well as their understanding of First Amendment and Supreme Court decisions impacting municipal authority, will be evaluated.

- **20 Points: Experience, Knowledge and Reputation**

Consultants who have a breadth of experience in successful code writing, either as a whole or through their individual team members, is important to New Braunfels' project. The consultant's planning, engineering, legal, etc. credentials and references will illustrate the caliber of their assembled team. Please provide resumes of key personnel to work on this contract. Provide all information you wish the City to consider regarding your firm's capabilities.

- **30 Points: Past Performance on Similar Projects**

Demonstration of the consultant's specific abilities to:

1. perform work as requested,
2. successfully shepherd similar projects through a development and adoption process,
3. adapt to changing circumstances,
4. respond to challenges, and
5. introduce creative solutions and public engagement methods is vital to understanding a team's readiness for New Braunfels' UDC.

Provide your technical qualifications and experience with similar projects. Any prior performance with the City of New Braunfels may also be a consideration.

- **30 Points: Planned Approach and Timeline**

The consultant team is required to provide a thoughtful and creative approach to accomplish this UDC project within the time expectations of the City. Emphasis will be placed on the team's approach to resolving competing interests, implementing the Comprehensive Plan, identifying process improvements, introducing innovative concepts, developing creative ideas to retrofit a suburban model, addressing the needs of the community's most vulnerable, and addressing all other key needs noted in the scope of work below.

TOTAL POSSIBLE POINTS: 100

5.2.2 Presentations/Interviews: After an initial review and evaluation process, the City may ask for a presentation and/or interview of top ranked firms, or firm to clarify and to develop a comprehensive assessment of their submission. The City may request cost estimation at the time of presentation or interview.

5.2.3 Qualifications/Previous Performance. For this RFQ, Respondent's qualifications will be evaluated, and the most qualified Respondent will be selected, subject to negotiation of fair and reasonable compensation. Negotiations may be undertaken with the firm whose SOQ best addresses the needs of the proposed project and demonstrates the ability and experience to perform the work. Award of the contract will be to the responsive firm whose SOQ is most advantageous to the City.

5.2.4 References. Contact information for client references must be current. Please include contracts awarded to your company, complete with a current point of contact for the client, telephone number, email address if available, summary of the work performed, and a contract term.

5.2.5 SOQ Form. Responses of excessive length or complexity are discouraged. The City reserves the right to include the selected SOQ, or any part of the selected proposal, in the final design contract. Emphasis is on completeness and clarity of content.

5.2.6 Other Considerations. The City reserves the right to request additional information or consider historical information and facts, whether gained from the RFQ, references, or any other source, in the evaluation process, including Respondent's past working or business relationship with the City, if any. The City further reserves the right to consider a respondent's background, personnel, experience, financial and other references, management practices, exceptions to the RFQ or subsequent contract, and any working relationships, past or present, a respondent may have with its other clients.

Respondent should be aware that the contents of the successful SOQ response will become part of subsequent contractual documents.

5.2.7 Opened SOQ. A submittal may not be opened before the closing date for the purpose of changing or amending the submittal or to correct an error in the submittal terms or conditions. If the submittal is opened before the closing date by anyone other than the City, the submittal may be rejected in its entirety by the City.

5.2.8 Additional Information. At your option, provide in your Qualifications any contractual language, terms, conditions, considerations, or contingencies your company would request or require to be included in the negotiated contract between the City and the selected submitter, should your company be awarded a contract. Approval of such language, terms, conditions, considerations, or contingencies offered by a submitter remains with the City and in all cases the City's decision is final.

5.2.9 The City reserves the right to reject any or all submittals, to waive informalities and accept the submittal that the Owner believes is the most advantageous to the public interest and in keeping with the local government project procedures.

5.3 LIMITATIONS

5.3.1 Right to Accept or Reject. The City reserves the right to accept or reject any or all submissions as a result of this RFQ, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the City. The RFQ does not commit the City to award a contract, issue a purchase order, or pay any costs incurred in the preparation of a submission in response to this RFQ.

5.3.2 Solicitation to Remain Subject to Acceptance. All solicitations will remain subject to acceptance for one hundred twenty (120) days after opening without taking action.

5.3.3 City Council Approval Required. The City of New Braunfels City Council must approve the firm selected to provide the services requested in this RFQ. The City reserves the right to authorize contract negotiations to begin without further discussion with firms submitting a response. Therefore, each SOQ should be submitted as completely and accurately as possible. The City reserves the right to request additional data, oral discussions, or presentations in support of the written SOQ.

5.3.4 Firm Obligation Regarding Evaluation:

- Submission of Information.** Submitters are cautioned that it is each firm sole responsibility to submit information related to the evaluation categories, and the City is under no obligation to solicit such information if it is not included with the SOQ. Failure of a firm to submit such information may cause an adverse impact on the evaluation of the specific SOQ.
- Submitter Review of RFQ.** Submitters are responsible for examining and being familiar with all specifications, terms, conditions, provisions, and instructions of the RFQ and their responses. Failure to do so will be at the firm risk and will not be a determinative factor when awarding the contract for services.

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5.3.5 Oral Non-Binding. Any non-written representations, explanations, or instructions given by City staff or City agents are not binding and do not form a part of, or alter in any way, the RFQ, a written agreement pertinent to the RFQ, or the awarding of the contract.

5.3.6 Lobbying Prohibited. Proponents are prohibited from directly or indirectly communicating with City Council members regarding the Proponent's qualifications or any other matter related to the eventual award of a contract for the services requested under this RFQ. Proponents are prohibited from contacting city staff members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff member. Any violation will result in immediate disqualification of the proponent from the selection process.

5.4 SOQ SPECIFICATIONS

5.4.1 Modification or Withdrawal of Proposal. SOQs cannot be altered or amended after the submittal deadline. SOQs may be modified prior to the deadline only by providing a written notice by mail or email) to the Purchasing Representative at the address shown herein. A submitter's SOQ may also be withdrawn in writing by providing the same notice by a submitter or the submitter's authorized agent, providing the agent's identify is made known and the agent signs the request to withdraw SOQ. **HOWEVER, IN THE EVENT OF WITHDRAWAL, THE SUBMITTER WILL NOT BE ALLOWED TO RESUBMIT.** This provision does not change the common law right of a firm to withdraw a SOQ due to a material mistake in the SOQ.

5.4.2 Inquiries. In order to ensure fair and objective evaluation, all questions related to this RFQ should be addressed only to the persons named in Section 4.1 of this solicitation.

5.4.3 RFQ Interpretation; Addendum. Any interpretations, corrections, or changes to this RFQ will be made by addenda through:

- <https://www.bidnetdirect.com/texas/city-of-new-braunfels>
- and the City Website: <http://nbtexas.org/DocumentCenter/Home/Index/139>

Submitters shall acknowledge receipt of all addenda per the instructions to be attached to addenda.

SECTION 6
PROJECT DESCRIPTION AND SCOPE OF WORK

6.1 Overview

The City of New Braunfels is seeking proposals from qualified consultant teams interested in assisting the community in drafting and preparing a functional, practical, reasonable, and responsible Unified Development Code (UDC). The project will include overhauling and consolidating the existing development-related ordinances into a single, easy-to-use document housed in a single chapter of the New Braunfels Code of Ordinances.

The estimated budget for this project is not to exceed \$400,000.

The primary objective of the UDC is to be one of the city's tools used to implement Envision New Braunfels, the community's comprehensive plan, which won the American Planning Association (APA) state chapter award for best Comprehensive Plan in 2018. The plan focuses on how to accommodate and manage the tremendous growth the region is experiencing, while maintaining New Braunfels' exceptional quality of life sustained through its history, cultural identity, environment, geography, architecture, and natural resources.

Link to City of New Braunfels' Comprehensive Plan:

<http://www.nbtexas.org/2346/Learn-about-the-Comprehensive-Plan>

Link to Envision New Braunfels Annual Report:

<https://www.nbtexas.org/DocumentCenter/View/21233/Envision-NB-2019-Annual-Report-FEB-2021-Update>

The current development-related ordinances, including but not limited to the Zoning Ordinance (Chapter 144), Subdivision Platting Ordinance (Chapter 118), Sign Ordinance (Chapter 106), and Historic Preservation Ordinance (Chapter 66), were written at a different time in New Braunfels' history. The suburban-style standards, subjective criteria, and lack of innovative development alternatives create barriers to implementation of Envision New Braunfels, as well as other adopted City plans and policies. Additionally, the ordinances' locations in different chapters in the Code of Ordinances can create confusion: multiple cross-referencing can lead to missed requirements and, in turn, costly development delays.

The selected consultant team must have demonstrated experience in:

1. Drafting contemporary development codes/ordinances to implement a comprehensive plan;
2. Producing engaging descriptive design illustrations, maps and graphics to supplement and clarify written requirements or concepts;
3. Considering constitutionality of standards, processes and exactions;
4. Employing rough proportionality analyses, and applying Texas' vested rights statute;
5. Removing barriers to innovative development patterns, sprawl retrofits, workforce housing, and flexibility to allow for innovation, creativity, and placemaking;
6. Creating development and zoning incentives to achieve excellent urban design, great streets, enhanced mobility and a community's desired urban form;
7. Preparing guidelines as incentives for low impact development (LID), tree preservation, riparian protections, and related environmental objectives identified in a community's comprehensive plan;

8. Writing innovative zoning tools for comprehensive plan implementation that appropriately address both the private and public realm;
9. Consolidating and streamlining inefficient and redundant processes;
10. Collaborating with broad groups of stakeholders to achieve desired outcomes; and
11. Working as an extension of city staff in engaging the public and workgroups to build consensus and understanding around innovative concepts for the built-environment.

6.2 Community Background

The seat of Comal County, New Braunfels is strategically situated between the Nation's seventh largest city, San Antonio, to the south, and the Texas Capital, Austin, to the north, with easy access to each along Interstate Highway 35. Interstate Highway 10, less than ten miles to the south, provides access to Houston, three hours to the east.

Consistently ranked by the U.S. Census Bureau in the top 10 fastest growing cities in the Nation, New Braunfels has a 2019 estimated population of over 90,000 within a metropolitan statistical area (MSA) of approximately 2.3 million inhabitants. It is anticipated the decennial census will find New Braunfels to be over 100,000 in population, automatically extending its ETJ to 5 miles. Founded in 1845, New Braunfels has a rich history and, in light of the tremendous growth, still retains its cultural heritage which influences its architecture, community activities, branding, pride of citizenship, and way of life.

The environmentally sensitive Balcones Escarpment on the west side of the city gives dramatic rise to the Texas Hill Country. The base of the escarpment includes numerous natural springs coming forth from karst in the limestone of the Edwards Aquifer, the region's main fresh water source. These springs form the headwaters of the Comal River. The pristine Comal River winds its way through town to its confluence with the Guadalupe River. The Guadalupe River, with headwaters in the western Hill Country, feeds Canyon Lake north of New Braunfels, then flows southeast, across the Blackland Prairie, filling several hydroelectric and recreational reservoirs downstream. Both watercourses provide much of the source for outdoor recreation that draws millions of visitors from across the Country to the area every year.

Situated approximately equidistant between Austin and San Antonio, New Braunfels has ready access to numerous state-supported and private universities in the region and boasts a solid transportation infrastructure network including a successful regional airport. All of the above, coupled with the region's changing demographics, contribute to continued vibrant business and corporate location and expansion in a variety of fields and sectors.

6.3 Comprehensive Plan

The innovative public engagement methods used to gather extensive community input were the hallmarks of Envision New Braunfels and contributed to its selection as the best Texas comprehensive plan in 2018. A truly community-driven plan, Envision New Braunfels encourages partnerships with private business, school districts, not-for-profits, service organizations, the medical industry, etc. to achieve full implementation.

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Envision New Braunfels specifically calls for adopting a UDC that encourages great urban design for existing and future centers. Some of the 287 strategies and actions directly addressing the UDC include, but are not limited to:

Strategy 1 – Support Vibrant Centers

- Action 1.6: Incentivize infill development and redevelopment to take advantage of existing infrastructure.
- Action 1.11: Update policies and codes to achieve development patterns that implement the goals of Envision New Braunfels.
- Action 1.14: Ensure regulations do not unintentionally inhibit the provision of a variety of flexible and innovative lodging options and attractions.

Strategy 2 – Activate Neighborhoods

- Action 2.1: Sustain community livability for all ages and economic backgrounds.
- Action 2.5: Encourage diversification of commercial activity Downtown to build on and sustain existing historic resources and maximize structure utilization for economic expansion.
- Action 2.8: Establish or expand architectural standards for quality of design across the city.
- Action 2.33: Encourage vertical growth and development of key areas to take advantage of infrastructure capacity, maintain the core, and to discourage sprawl.
- Aging in Place special action: Ensure that community land-use planning improves older-adult mobility through zoning enhancements that support the logical location of older-adult housing and services near transportation and mobility infrastructure.

Strategy 3 – Balance Jobs and Housing Choice

- Action 3.6: Pro-actively provide a regulatory environment that remains business and resident friendly.
- Action 3.10: Change zoning/land use and platting rules and create tax and permit fee incentives in underutilized neighborhoods, nodes, and corridors to encourage redevelopment.
- Action 3.13: Cultivate an environment where a healthy mix of different housing products at a range of sizes, affordability, densities, amenities and price points can be provided across the community as well as within individual developments.
- Action 3.16: Review and revise regulations that inadvertently inhibit creative housing options or workforce housing alternatives.
- Action 3.23: Revise local ordinances so that they do not inadvertently inhibit development of venues in close proximity to neighborhoods and schools.

Strategy 4 – Innovate in Parks and Public Spaces

- Action 4.1: Ensure parks and green spaces are within a one-mile walk or bicycle ride for every household in New Braunfels.

Strategy 5 – Bolster Resilient Infrastructure

- Action 5.2: Discourage development in Edwards Aquifer Recharge and contributing zones, stream zones, or other ecologically constrained areas. Where development in these areas must occur, require that it be environmentally sound using tools such as but not limited to low impact development (LID).

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- Action 5.3: Amend codes to include incentives for developers to use LID tools such as permeable materials, rainwater harvesting, bio-swales, etc. Phase-in some as requirements over time.
- Action 5.13: Continuously seek new innovations in drainage, streets, engineering practices, etc. to achieve the state of the art; require or incentivize practices for the development community.
- Action 5.15: Ensure that developers adequately address drainage in their projects and developments.
- Action 5.16: Update City of New Braunfels ordinances to reflect the “Drainage and Erosion Control Design Manual” principles.
- Action 5.17: Review and update Tree and Landscape ordinances to ensure New Braunfels remains a green city and expands its tree canopy.
- Action 5.27: Enhance city codes to encourage solar energy usage/generation.

Strategy 6 – Coordinate Community Investments

- Action 6.2: Protect the airport from incompatible land use encroachment.

Strategy 7 – Connect All

- Action 7.4: Strengthen sidewalk requirements in the City’s codes.
- Action 7.6: Design neighborhoods and subdivision development codes with schools and school access in mind.
- Action 7.7: Ensure that local development codes which require sidewalks, trails, lanes or paths include healthy living, safety, and vehicular congestion relief as an intent.
- Action 7.9: Enact/enforce maximum block size limitations.
- Action 7.10: Require more street connectivity/adopt connectivity ratios.
- Action 7.11: Allow for smaller/narrower streets and lot size variety within individual subdivisions.
- Action 7.19: Improve connectivity for all modes of transportation including bicycles.
- Action 7.39: Add handicapped parking requirements to the New Braunfels parking ordinances.
- Action 7.50: Ensure the thoroughfare plan includes and ordinances require adequate dedication and reservation of right-of-way for future roadways.

Strategy 8 – Cultivate Local and Regional Partnerships

- Action 8.8: Collaborate with property owners to preserve historic structures.

6.4 Future Land Use Map

Envision New Braunfels includes an innovative future land use map that focuses on Sub Areas, Corridors, and Existing and Future Centers of activity and vitality. The existing zoning districts were written to accommodate models of more prescriptive land use categories. The new UDC will need to embrace the new model with appropriate standards to achieve mixed-use, neighborhood compatibility, multi-modal connectivity, and use transitions.

6.5 Related Plans and Studies

The City and its area partner agencies and organizations have adopted various plans, reports, studies, GIS information and maps that further guide and shape the built environment. The selected consultant

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is expected to become familiar with these documents for UDC integration and policy implementation. These include, but are not limited to:

- South Castell Avenue Visioning Plan
<http://www.nbtxas.org/DocumentCenter/View/14478/S-Castell-VP-Presentation-of-11122018---City-Council-mtg>
- Workforce Housing Study
<https://www.nbtxas.org/2957/Housing>
- Economic Development Strategic Plan
<https://www.nbtxas.org/DocumentCenter/View/11153/NBEDSP-Final?bidId=>
- Parks and Recreation Strategic Master Plan
<https://www.nbtxas.org/2546/Parks-Recreation-Strategic-Master-Plan>
- Downtown Implementation Plan
https://www.nbtxas.org/DocumentCenter/View/15741/Downtown_Plan_1_26_10
- Castell Avenue Study (2021)
- San Antonio Street Neighborhood Study (2021)
- River Mill Neighborhood Plan (underway)
- Regional Transportation Plan
<https://www.nbtxas.org/1248/Regional-Transportation>
- Hike and Bike Trail Master Plan
https://www.nbtxas.org/DocumentCenter/View/21249/HBT_FINAL_withlink?bidId=
- River Properties Master Plan
<https://www.nbtxas.org/2547/River-Properties-Master-Plan>
- Landa Park and Arboretum Master Plan
<http://www.nbtxas.org/2542/Landa-Park-Master-Plan>
- Mission Hill Park Master Plan
<https://www.nbtxas.org/2545/Mission-Hill-Park-Master-Plan#:~:text=The%20Mission%20Hill%20Park%20Master,of%20the%20park%20are%20%243%2C000%2C000.&text=City%20Council%20approved%20the%20Master%20Plan%20at%20on%20August%208%2C%202016>
- Drainage and Erosion Control Design Manual
<http://nbtxas.org/3152/Proposed-Drainage-Policy-Changes>
- Veramendi Development and Design Control Document
<https://www.nbtxas.org/DocumentCenter/View/17409/DDCD-v31-FINAL-low-res>

6.6 Ordinances: https://library.municode.com/tx/new_braunfels/codes/code_of_ordinances

The current Zoning Ordinance is an amalgamation of various different updates over the decades. Originally drafted in the 1960s as an update to one from the 1940s, it includes pyramidal style zoning districts and suburban style development standards. This is contrary to the community's pride of not being a suburb. An update in 1987 added new zoning districts that maintained a mostly cumulative nature. A number of collective edits were made in 2006 as an initial response to rapid growth that began that decade. Piecemeal amendments have made incremental improvements since.

The Subdivision Platting Ordinance was adopted in the 1990s and has remained largely in its current form since, save for the state-mandated edits in HB 3167 in 2019. Like the Zoning Ordinance, the Subdivision Platting Ordinance includes rules that favor typical suburban style layouts and designs, impact redevelopment costs and timelines, and limit creativity without complex process reviews or waivers. A few recent incremental amendments have added some strategic flexible improvements; more such edits are needed to fully implement patterns desired by the community as reflected in Envision New Braunfels.

The Sign Ordinance was adopted in 2006. State law changes and court decisions have rendered parts of it unenforceable. Attempts by staff to make strategic edits to codify these issues have proven difficult due to the impact one seemingly minor change has on associated connecting or related standards. A complete rewrite has been frequently requested by the local sign industry.

The Historic Preservation Ordinance was written in the 1990s. The City has several historic districts, and relatively frequent property owner requests for historic landmark designation; however, the districts do not have design standards. Additionally, the ordinance includes complicated timing and procedural steps for demolition requests. Furthermore, while individual landmark designation carries the typical tax relief incentive, there are few incentives to the creation of broader historic districts.

Some of the specific issues with the current standards include, but are not limited to:

- Overly regulatory language and messaging.
- Excessive subjectivity for decision making that should be replaced with objective criteria.
- Standards that do not align with the Comprehensive Plan.
- Inconsistent format, structure, and numbering.
- Remnants of pyramidal style zoning.
- Redundancy within individual ordinances and across multiple ordinances.
- Standards and regulations housed in the wrong ordinance.
- Lack of graphics, illustrations, sketches, and process flowcharts.
- Insufficient definitions, with regulatory language within the definitions.
- Inadequate nonconforming use criteria and no amortization procedures.
- Outdated and ineffective parking standards.
- Unclear block length requirements that do not reflect desired development patterns.
- Lack of commentary on intent and connection to the comprehensive plan.
- Limited case management and board/commission procedures.
- Inadequate promotion of mixed use and neighborhood compatibility.
- Excessive specific delineation of uses (rather than use categories) which limits flexibility as uses change with the market.
- Lack of flexibility for creative subdivision design alternatives and variety, mixed use, and infill.
- Requirements that unintentionally inhibit physical activity, ease of access to food, or protection of natural resources.

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- Limited standards or incentives to achieve connectivity between neighborhoods, regardless of mode.
- Minimal landscaping buffers to provide better use intensity transitions.
- Inconsistency with court rulings, rendering some rules unenforceable or obsolete.
- Barriers to redevelopment, workforce housing and current market trends.
- Unintentional incentivizing of Special Use Permits (SUPs).

Recent and on-going incremental improvements, developed with thorough stakeholder input, likely need to only be briefly examined for general updates. These include, but are not limited to, ordinances on short-term rentals, truck stops, commercial vehicles in neighborhoods, overlays and special districts, downtown sidewalk permits, and edits to comply with HB 3167 and HB 2439. Critical improvements currently underway include recommendations from the Workforce Housing Advisory Committee on Missing Middle Housing concepts, minimum lot size adjustments, accessory dwelling and live-work unit allowances, and mobile food vending.

Following are other ordinances or documents that, while related to development, will not be part of the scope of this project, aside from any necessary cross-referencing:

- Parkland Dedication and Development Ordinance
- Drainage and Erosion Control Design Manual
- I-Codes (Chapter 14)
- Environment (Chapter 50)
- Floods (Chapter 58)

An extraneous Chapter of the Code of Ordinances needs to be included and incorporated into the UDC: Chapter 98 "Planning", which includes an outline for establishment of the Planning Commission and Zoning Board of Adjustment.

Finally, the consultant team will examine ordinances in nearby cities, as well as comparable cities. Best practices and model ordinances that would achieve the goals of Envision New Braunfels should be considered.

6.7 Project Scope

The scope of services listed below is not intended to be a comprehensive list of what the consultant team will provide, but rather shall serve as a guide. It is expected that the selected consultant team's proposals will provide more specific recommendations for approaches, tasks, timelines, and deliverables based on their experience and expertise from past work on related projects. The consultant team is expected to bring creative and innovative ideas and procedures to the project, and work with City staff to customize the details, work plan and phase structure.

The UDC will be developed through a lens of equity and inclusion. Although not an exhaustive list, the following are to be examined for potential inclusion in the UDC:

- Placemaking
- Form-based zoning
- Walkable communities
- LID incentives
- Connectivity ratios

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- Performance-based buffering of incompatible uses
- Incentives for housing type variety/diversity and missing-middle housing
- Allowances for lot shape and size variety
- Context sensitive standards to create a rich variety of building types and appropriately address the public and private realms
- Improved public health through the built environment
- Conservation subdivision alternatives
- Encouragements for housing types that support all ages in the community

Additionally, the South Castell Avenue Visioning Plan specifically calls for the creation of a Transit Oriented Development (TOD) zoning district. The UDC will need to include the creation of a TOD to accomplish this goal.

Branding

The selected consultant will assist City staff with identifying a marketing brand and strategy for the project effort. Such branding could include a name and logo that complements the City's official logo in style and color, as well as the Envision New Braunfels logo. The marketing logo and branding will be the property of the City of New Braunfels, and may be used on all related documents, correspondence, marketing materials, website, etc.

Code Diagnostic and Analysis

The selected consultant team will perform a diagnostic analysis of the current zoning, subdivision platting, sign, and historic preservation ordinances. This diagnostic will identify conflicts with federal regulations, state statutes, case law, other city ordinances, the Comprehensive Plan, the Future Land Use map, and other plans and studies. The diagnostic analysis will itemize known issues with the current ordinances, including information from staff regarding application and utilization. A Technical Staff Committee should be assembled to assist with this diagnostic, sharing issues and experiences. Stakeholder interviews will also prove helpful in assessing issues experienced by the development and building community, as well as neighborhood residents.

The selected consultant team is expected to demonstrate clear understanding of necessary actions to achieve the vision established in adopted plans. They shall take note, through general community and neighborhood evaluation, and review of the existing plans and policies, of unique neighborhood and geographic features, associated cultures, architecture, and form of development.

The consultant team should develop a menu of options and approaches to address issues identified in the diagnostic. To arrive at their conclusions, the consultant team may test implementation through scenarios and modeling. Approaches for how to address the potential creation of legal nonconforming uses upon adoption, will need to be provided. The consultant team shall articulate implications of the different options and recommend implementation strategies for discussion.

Community Outreach and Participation

As demonstrated with Envision New Braunfels, a robust public engagement program results in a superior product. The residents of New Braunfels take pride in the community and are passionate about maintaining and continuously improving quality of life. Substantial base vision data already exists in the various adopted long-range plans. However, considering the thousands of new residents who have moved to the city since adoption of the Comprehensive Plan, the UDC development process should include public input. Therefore, the consultant is expected to possess expertise in a variety of innovative public engagement approaches and techniques to encourage participation.

RFQ 21-011 Request for Qualifications for Creation of Unified Development Code for the City of New Braunfels, Texas

The consultant team, with input from the City, will develop a stakeholder engagement methodology that will ensure opportunities for broad, diverse, community-wide input. It should include an appropriate mix of effective tools and techniques such as public workshops, virtual town halls, open houses, charrettes, visual preference surveys, interactive webpage, social media conversations, community events, festival booths, department and city newsletter articles, press releases, etc. The consultant shall take special care to ensure the thoughts and ideas of disadvantaged and vulnerable groups are collected. The final document will integrate and reflect the overall community's values and guiding principles identified through the public outreach effort, as well as what has already been captured from the community in the Comprehensive Plan and other adopted plans.

Once the project is underway, a Citizens Advisory Committee, likely made up of members of the Planning Commission, Zoning Board of Adjustment, and Historic Landmark Commission, will provide project guidance. Four Task Groups may also be formed to provide expert input on each topical area (Zoning, Platting, Signs, Historic Preservation). These task groups should be composed of community members who have working knowledge of, or direct interest in the topics, but should be diverse in representation, industry, and points of view. Charette methods or workshops may be used for Task Groups to cooperatively develop draft standards. However, the consultant team should recommend approaches to the above to ensure successful outcomes. The Technical Staff Committee will also prove beneficial throughout the process to provide feedback, input, and insight.

The selected consultant team should expect to hold or attend meetings and workshops with City Council, Planning Commission, Zoning Board of Adjustment, Historic Landmark Commission, the development community, advisory committee, task groups, key stakeholders, and the general public. In all engagement settings, the consultant team will act as expert facilitator in the formulation of standards that are acceptable to both residents and the development/business community by providing neutral opinions, creative alternatives, best practice recommendations, and potential resolutions.

The selected consultant team will prepare data, graphics, tables, charts, PowerPoints, maps, and all other materials necessary to facilitate all public engagement activities and meetings. Any GIS-oriented web applications to assist with public outreach will be developed by the consultant using the ArcGIS Online platform provided by ESRI.

UDC Drafting and Development

The selected consultant team will document, compile and analyze all data, public input, and committee guidance. This information will influence and drive document development and finalization of standards into a UDC draft that clearly reflects the Comprehensive Plan's expectations. The consultant team shall ensure compliance with all applicable Texas state statutes, federal laws, and Supreme Court decisions. The team will additionally provide guidance regarding any zoning map changes which result from converting to the UDC.

Overall, the UDC should:

- Be "user-friendly", i.e. easy to read, understand, and interpret for citizens, staff, developers, and elected and appointed officials.
- Be on-line searchable with hyperlinks to references and guiding plans and policies.
- Include process mapping flowcharts.
- Intuitively integrate all aspects of development requirements and operational processes.
- Be easily administered, with objective criteria for staff, saving subjective decision making for boards/commissions/council.

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- Include objective administrative approval processes for minor adjustments and applications.
- Be heavily illustrated, with considerable, digitally compatible maps and graphics depicting requirements and concepts.
- Streamline processes.
- Remove barriers and add flexibility to allow for creative development, redevelopment, and preservation alternatives.
- Include regulatory incentives to encourage or catalyze quality redevelopment.
- Recognize the land use-transportation-public realm relationship within a framework of context sensitivity.
- Establish standards that result in quality development, street design, and a sense of place.
- Facilitate the creation of gateways and corridor reinvestment solutions.
- Encourage housing variety, enhance quality and equity, and address the “missing middle”.
- Accommodate multi-modal transportation and complete streets to support mobility for all ages and physical needs.
- Maximize the use of all state-authorized subdivision and historic preservation tools.

Communications with Client

The consultant team shall provide, at a minimum:

- Twice-monthly phone calls/virtual meetings with the staff project manager,
- Twice-monthly email updates on the project progress/status,
- Pre- and post- committee meeting/public outreach communication/take-aways,
- Free flow of information, and
- Resolution of any questions or issues that arise.

Document component drafts and accompanying illustrations will be prepared for review by City staff and the Citizens Advisory Committee. After providing sufficient time for detailed review of drafts, the consultant will follow-up with final versions in response to comments, feedback, corrections, etc.

Adoption Process and Deliverables

The consultant team is expected to carry the UDC from inception through document adoption. The adoption process will include review and recommendation by boards and commissions, and potential joint workshops with boards, commissions and City Council, before final consideration by City Council. The consultant team's responsibility to present at the meetings with these boards/commissions will vary subject to strategy, although attendance at all at a minimum is required.

The consultant team will provide twenty (20) hard copies of the draft UDC ahead of the Planning Commission recommendation and City Council final consideration. The consultant team shall also track recommended modifications by all boards/commissions in a table or the best tool recommended by the team. These recommended modifications will be considered by City Council alongside the staff/consultant-recommended final draft.

The consultant will provide ten (10) bound hard copies of the final, adopted UDC, as well as the full document in web-ready, hyper-linked, electronic format acceptable to the City. Project files and GIS data used to produce all final maps will be provided as ESRI project files, geodatabases, and layer files containing the symbology and labeling properties that are compatible with the City's systems in place at time of adoption.

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The City currently publishes its Code of Ordinances with the Municipal Code Corporation (Municode) and, therefore, relies on the Internet version as its official set of rules and standards; the final adopted version must be in a format compatible with and acceptable to Municode publishing standards. The consultant team's assistance in packaging the final document for submission to Municode for publication will be needed.

The final documents and all accompanying illustrations, images, maps, charts, tables, flowcharts, etc. shall be the property of the City of New Braunfels. Upon completion of the contract, maintenance of the UDC website and other online tools will be relinquished to the City of New Braunfels.

Timeline

The consultant shall prepare a timeline for individual phase or component completion and development. It is anticipated the overall project may take approximately 18 to 21 months. However, it is recognized that developing a UDC can ignite specific topic issues, therefore the City is flexible if such issues arise. The selected consultant is expected to have expertise in resolving such unforeseen issues related to land use, technical requirements, or development standards.

PROPOSERS SHOULD INCLUDE THE FOLLOWING IN THEIR PROPOSAL RESPONSE:

1. Cover Letter

A cover letter with company name, address, phone number, email address, webpage, project contact, and principal signature is required. The letter should express the reasoning for your interest in the project and certify the firms/team have/has sufficient resources in personnel, equipment, brain power, and time to commit to this project.

2. Consultant Profile

Provide at least the following information about any firm participating on the consultant team:

- Firm name, business address, telephone number, and email address
- Year established (including former firm names and year established if applicable)
- Project Manager's name, mailing address, email address, telephone number, and resume
- Office locations

3. Project Team

Provide at least the following information about the personnel that will be assigned to this project:

- Resumes, areas of competence or specialties, position in the firm, and include them on a team/project organizational chart
- Describe the responsibilities of each team member, and include a brief statement from each expressing their interest in this project and why

4. Relevant Experience

Please share information related to at least four similar projects the consultant directly worked on and successfully completed that will illustrate your ability to perform services required for this project. Be specific as to how the projects relate to this one, with a goal of demonstrating how well the consultant understands this project and the New Braunfels community. For each project, please provide at least the following information:

- Project name and location.
- General scope of services provided, and contract cost.
- Information regarding the results of the services. Include any special circumstances or special conditions encountered.

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- Name of consultant team member(s) associated with the project.
- Date of contract award and date of completion, including any milestones.
- Links to final adopted projects.

5. Work Plan

Describe the team's proposed work plan regarding approach to accomplishing the scope, including detailed specific tasks and responsible parties. Include your detailed approach to innovative public outreach and committee organization. Provide a written narrative detailing your general understanding of the City and project. Include a descriptive list of deliverables at each task step, and methodology for benchmarking performance.

6. Project Schedule

Submit a schedule and timeline illustrating phasing, key task target dates, milestones, estimated task durations, anticipated time individual team members will spend on the project components, and requirements for completing the entire scope of work.

7. Quality Control

Describe how the consultant will handle quality control to monitor and resolve issues and check and cross-reference documents.

Proposers are encouraged to include additional information that the firm considers to be pertinent to this project, which was not specified in the RFQ.

6.8 CONTRACT AWARD AMOUNT

The firm's Contract award amount will be requested from the selected firm during contract negotiations and finalization of contract scope of work, terms and conditions, etc. Refer to Section 3, 3.4 Contract, if contract negotiations are not successfully agreed upon by the City. After contract negotiations have been completed, the contract award amount must be approved by the New Braunfels City Council.

If additional related services are requested by the City at any time during the contract term, the City will request pricing as needed. If additional services are added to the Agreement, the City will issue a modification to the Agreement and the firm will be compensated for the requested additional services.

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for the City of New Braunfels, Texas**

ATTACHMENT A

COMPANY INFORMATION

1. Company Information:

- Company name: _____
- Company address: _____
- Year established: _____
- Number of years in business under present name: _____
- Form of ownership: Proprietorship Partnership Corporation Other (specify) _____
- When organized: _____
- If a corporation, where incorporated: _____
- Federal Employer Identification Number: _____
- Texas Comptroller's Taxpayer Number, if applicable: _____
- DUNS NUMBER: _____
- Complete **A** below if you are a non-resident Respondent (your company's principal place of business is not in Texas). **Resident Respondents must check box B.**

A: Company is a non-resident Respondent. Its principal place of business is the state of _____

Check one of the following options:

Non-resident Respondents in the state of our principal place of business are required to propose _____ percent lower than resident Respondents by state law. A copy of the statute is attached.

Non-resident Respondents in the state of our principal place of business are not required to underbid resident Respondents in order to secure contract awards.

B: Company's principal place of business or corporate offices is in the State of Texas.

2. Subcontractor(s), if applicable:

Subcontractor(s) will not be used to complete this contract.

Subcontractor(s) will be used to complete this contract. (*Attach a list if additional space is necessary.*)

Subcontractor Name: _____

Percentage (%) of Total Contract: _____

Mailing Address: _____

3. If applicable, provide a list of officers of the company who, while in the employ of the company or the employ of previous companies, were associated with contracts which resulted in law suits, contracts defaulted or filed for bankruptcy

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4. References:

Provide three (3) references that Respondent has provided services to within the past five (5) years. The contact person named should be familiar with the day-to-day management of the contract and be willing to respond to questions regarding the type, level, and quality of service provided.

A. Reference No. 1:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Date and Type of Service(s) Provided: _____

B. Reference No. 2:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Date and Type of Service(s) Provided: _____

C. Reference No. 3:

Firm/Company Name: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Date and Type of Service(s) Provided: _____

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5. If awarded, Respondent's primary point of contact for City account is:

Name: _____

Title: _____

Office Location: _____

Mailing Address: _____

* Telephone Number: _____ Fax Number: _____

Email Address: _____

** Emergency Contact Number for After-Hours Service: _____

*** A representative of the company must be available to answer phone calls from City
Monday through Friday, 8:00 A.M. to 5:00 P.M. (Central Time).**

**6. If awarded, Respondent shall indicate preferred method for which City is to notify Awarded
Contractor of purchase orders:**

Purchase Orders shall be communicated via: *(check all that apply)* Phone Fax Email

Contact Person: _____

Phone: _____

Fax: _____

Email Address: _____

ATTACHMENT B - VENDOR CERTIFICATIONS

The Proposer is required to submit the following information to Owner for consideration:

Provide responses that are clear and comprehensive.

Company name: _____

Permanent main office address: _____
Street _____ City, ST _____ ZIP _____

Tax ID No.: _____

1. Provide a list of officers of the firm who, while in the employ of the firm or the employ of previous firms, were associated with contracts which resulted in lawsuits, contracts defaulted or filed for bankruptcy.

2. Form of ownership: Proprietorship Partnership Corporation Other (specify) _____

To demonstrate qualifications to perform the scope of services, each Respondent is required to submit the following information to Owner for consideration.

Answer all questions listed below. Provide responses that are clear and comprehensive. Attach any additional information provided on separate sheets, if applicable.

DEBARMENT/SUSPENSION INFORMATION:

1. Has the Respondent or any of its principals been debarred or suspended from contracting with any public entity or is Respondent listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>?

Yes No

If yes, identify in an attachment the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension, or listed at epls.gov and state the reason for or circumstances surrounding the debarment, suspension or ineligible for federal procurement, including but not limited to the period of time for such debarment, suspension or ineligibility.

CERTIFICATIONS:

1. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. Yes No

A. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the solicitation process or in the Contract execution;

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- B. "fraudulent practice" means an intentional misrepresentation of facts made
 - 1. to influence the solicitation process or the execution of the Contract to the detriment of Owner,
 - 2. to establish Cost Proposal or Contract prices at artificial non-competitive levels, or
 - 3. to deprive Owner of the benefits of free and open competition.
- C. "collusive practice" means a scheme or arrangement between two or more Respondents, with or without the knowledge of Owner, a purpose of which is to establish Cost Proposals at artificial, non-competitive levels; and
- D. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the solicitation process or affect the execution of the Contract.

2. NON-COLLUSION CERTIFICATION:

- A. Non-Collusion Certification: Do you certify that all of the following are true and correct concerning your company's cost Proposal? Yes No
 - 1. That you are fully informed of the contents of the solicitation and the circumstances of its preparation;
 - 2. That your cost Proposal is genuine and is not a collusive or sham cost Proposal;
 - 3. That neither you nor anyone else acting on behalf of your company has agreed, colluded, or conspired in any manner with any other respondent, firm or person to submit a collusive or sham cost Proposal, or to refrain from responding, or sought by communication or conference with any other respondent, firm or person to fix the prices, overhead, profit, or any cost element in your cost Proposal or in any other cost Proposal, or to secure through any collusion, conspiracy, or agreement any advantage against the City of New Braunfels or any other respondent; and
 - 4. The prices quoted in your cost Proposal are fair and proper and are not affected by any collusion, conspiracy, connivance or unlawful agreement on the part of your company or anyone acting on its behalf.

3. HOUSE BILL 89 VERIFICATION:

- A. Contractor shall verify that it's named company, under the provisions of Subtitle F Title 10 Government Code Chapter 2270: Yes No
 - 1. Does not boycott Israel currently; and
 - 2. Will not boycott Israel during the term of the contract.

Pursuant to Sections 2270.001, 2270.002, 808.001, Texas Government Code:

- 1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
- 2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

SEE NEXT PAGE FOR ACKNOWLEDGEMENT

ACKNOWLEDGEMENT

THE STATE OF _____
COUNTY OF _____

I certify that I have read all of the specifications and general RFQ requirements and do here by certify that all items submitted meet specifications. I certify that my responses and the information provided are true and correct to the best of my personal knowledge and belief and that I have made no willful misrepresentations in this Questionnaire, nor have I withheld any relevant information in my statements and answers to questions. I am aware that any information given by me in this questionnaire may be investigated and I hereby give my full permission for any such investigation and I fully acknowledge that any misrepresentations or omissions in my responses and information may cause my response to this solicitation to be rejected.

Company's Name

Signature, Authorized Representative of Respondent

Title

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
CREATION OF UNIFIED DEVELOPMENT CODE - PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into the _____ day of _____, 20_____, by and between the CITY OF NEW BRAUNFELS, TEXAS, hereinafter referred to as CITY and _____, hereinafter referred to as "CONSULTANT".

WHEREAS, CITY desires CONSULTANT to perform certain work and services set forth in Scope of Services, marked Exhibit "A", and attached hereto and incorporated herein.

WHEREAS, the CONSULTANT has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in said Scope of Services, and enumerated under Article II, of this Agreement.

NOW, THEREFORE, all parties agree as follows:

I. GENERAL

CONSULTANT shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in Article II hereof for the CITY in accordance with the terms, conditions and provisions of the Scope of Services, marked Exhibit "A", and attached hereto and incorporated herein for all purposes. CITY may, at any time, stop any services by the CONSULTANT upon giving CONSULTANT written notice. CONSULTANT shall be bound to CITY by the terms, conditions and responsibilities toward the CITY for CONSULTANT'S services set forth in this Agreement.

II. SERVICES

A. The following services, when authorized in writing by a Notice to Proceed, shall be performed by the CONSULTANT in accordance with the CITY'S requirements:

Consultant to perform services related to the creation of a Unified Development Code for the City of New Braunfels, as outlined in RFQ 21-011 and as negotiated with the City and specified in Scope of Work, Exhibit "A", attached hereto and incorporated into this Agreement.

B. CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans and other services furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in the design, drawings, specifications, plans and other services.

C. Neither CITY'S review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver if any rights under this Agreement or if any cause of action arising out of the performance of this Agreement, and CONSULTANT shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONSULTANT'S negligent performance of any of the services furnished under this Agreement.

D. The rights and remedies of CITY under this Agreement are as provided by law.

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
CREATION OF UNIFIED DEVELOPMENT CODE - PROFESSIONAL SERVICES AGREEMENT

III. PAYMENT

The parties agree that CONSULTANT shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "B". The contract amount specified shall not exceed \$_____. The contract amount specified in Exhibit "B" shall not be exceeded without written permission of the CITY.

IV. TIME FOR PERFORMANCE

A. CONSULTANT agrees to commence work immediately upon execution of this Agreement and to proceed diligently with said work, except for delays beyond the reasonable control of CONSULTANT, to completion as described in the Completion Schedule, attached hereto as Exhibit "C" and hereby made a part of this Agreement.

B. In the event CONSULTANT'S performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONSULTANT may request an extension of time for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays unless such delays exceed 90 days.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to the CONSULTANT, unless CONSULTANT shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONSULTANT have agreed in writing upon the allowance of additional time to be made.

V. DOCUMENTS

A. All instruments of service (including plans, specifications, drawings, reports, designs, computations, computer files, estimates, surveys, other data or work items, etc.) prepared under this Agreement shall be submitted for approval of the CITY. All instruments of service shall be professionally sealed as may be required by law or by CITY.

B. Such documents of service, together with necessary supporting documents, shall be delivered to CITY, and CITY shall have unlimited rights, for the benefit of CITY, in all instruments of service, including the right to use same on any other work of CITY without additional cost to CITY. If, in the event CITY uses such instruments of service on any work of CITY other than that specified in the Scope of Services, attached as Exhibit "A", provided CONSULTANT completes this Agreement, under those circumstances CITY hereby agrees to protect, defend, indemnify and hold harmless the CONSULTANT, their officers, agents, servants and employees, from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any inaccuracy, such use of such instruments of service with respect to such other work except where CONSULTANT participates in such other work.

C. CONSULTANT agrees to and does hereby grant to CITY a royalty-free license to all such instruments of service which CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws.

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
CREATION OF UNIFIED DEVELOPMENT CODE - PROFESSIONAL SERVICES AGREEMENT

CONSULTANT, upon request, agrees to furnish the originals of all such instruments including electronic design files of service to the CITY.

D. All text documents supplied to CITY as provided herein shall be in Word 2018 or fully compatible with Word 2017. Unless otherwise requested all design drawings supplied to CITY as provided herein shall be in Adobe PDF and AutoCAD compatible DWG format, if applicable.

VI. TERMINATION

A. CITY or the CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the CONSULTANT. In the event suspension or termination is without cause, payment to the CONSULTANT, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by CITY to be satisfactorily performed to date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. Should the CITY require a modification of its contract with CONSULTANT, and in the event CITY and CONSULTANT fail to agree upon a modification to this Agreement, CITY or the CONSULTANT shall have the option of terminating this Agreement. Payment to CONSULTANT shall be made by the CITY in accordance with the terms of this Agreement, for the services mutually agreed upon by the CITY and the CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

VII. INSURANCE

A. CONSULTANT shall provide and maintain Workers Compensation with statutory limits.

B. CONSULTANT shall provide and maintain in full force and effect during the time of this Agreement, auto insurance (including, but not limited to, insurance covering the operation of owned and non-owned automobiles, trucks and other vehicles) protecting CONSULTANT and CITY as an additional Insured with limits not less than \$500,000/\$1,000,000/\$250,000.

C. CONSULTANT shall provide Commercial General Liability Insurance. Such insurance covering personal and bodily injuries or death shall be in the sum of not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000.00) aggregate. Insurance covering damages to property shall be in the sum of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00). The general Liability Insurance must name the CITY as an additional Insured.

D. CONSULTANT shall also provide and maintain Professional Liability Errors and Omissions Insurance coverage to protect CONSULTANT and CITY from liability arising out of the performance of professional services, if any, under this Agreement. Such coverage shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Such insurance shall be kept in effect for four years after the completion of the contract. If CONSULTANT fails to maintain the insurance covered during that time, CITY may pay the premiums to keep the insurance in effect and recover the cost from the CONSULTANT.

E. A signed Certificate of Insurance, satisfactory to CITY, showing compliance with the requirements of this Article shall be furnished to CITY before any services are performed. Such Certificate shall provide 30 days written notice to CITY prior to the cancellation or modification of any insurance referred to therein and continue to issue such certificate for four years after completion of the contract.

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
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VIII. INDEMNIFICATION FOR INJURY AND PERFORMANCE

- A. CONSULTANT further specifically obligates itself to CITY in the following respects, to-wit:
- B. The CONSULTANT hereby agrees to protect, indemnify and hold harmless the CITY, their officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of the CONSULTANT, its officers, employees, servants, agents or subcontractors, or anyone else under the CONSULTANT'S, direction and control, and arising out of, resulting from, or caused by the negligent performance or failure of performance of any work or services called for by this Agreement, or from conditions created by the negligent performance or non-performance of said work or services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, the CONSULTANT shall be obligated to indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.
- C. The CONSULTANT is not responsible for the actions of the CITY'S contractor to perform the construction of the improvements covered under this Agreement.
- D. Acceptance and approval of the final plans by the CITY shall not constitute nor be deemed a release of this responsibility and liability of CONSULTANT, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the CITY for any defect in the designs, working drawings and specifications, or other documents prepared by CONSULTANT, its employees, contractor, agents and consultants.

IX. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION

CONSULTANT agrees that it is an independent contractor and not an agent of the CITY, and that CONSULTANT is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONSULTANT'S employees as employees of CITY for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. CONSULTANT further agrees to indemnify and hold CITY harmless and reimburse it for any expenses or liability incurred under said Statutes in connection with employees of CONSULTANT.

X. INDEMNIFICATION FOR PERFORMANCE

CONSULTANT shall defend and indemnify Indemnitees against and hold CITY and the premises harmless from any and all claims, suits or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred by CONSULTANT in performing this Agreement.

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
CREATION OF UNIFIED DEVELOPMENT CODE - PROFESSIONAL SERVICES AGREEMENT

XI. ASSIGNMENT

CONSULTANT shall not assign or sublet this Agreement or any part thereof, without the written consent of City Manager. Sale of more than 50% ownership of CONSULTANT shall be construed as an assignment.

XII. APPLICABLE LAWS

CONSULTANT shall comply with all Federal, State, County and Municipal laws, ordinances, regulations, safety orders, resolutions and building codes, including the Americans With Disabilities Act, relating or applicable to services to be performed under this Agreement.

This Agreement is performable in the State of Texas and shall be governed by the laws of the State of Texas. Venue on any suit hereunder shall be in Comal County, Texas.

XIII. DEFAULT OF CONSULTANT

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by CITY to CONSULTANT, CITY may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of CONSULTANT to and from meetings called by CITY at which CONSULTANT is required to attend, but shall not include any loss of profit of CONSULTANT. In the event of such termination, CITY may proceed to complete the services in any manner deemed proper by CITY, either by the use of its own forces or by resubmitting to others. In either event, the CONSULTANT shall be liable for all costs in excess of the total contract price under this Agreement incurred to complete the services herein provided for and the costs so incurred may be deducted and paid by the owner out of such monies as may be due or that may thereafter become due to CONSULTANT under and by virtue of this Agreement.

B. CITY may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of the CONSULTANT.

XIV. ADJUSTMENTS IN SERVICES

No claims for extra services, additional services or changes in the services will be made by CONSULTANT without a written agreement with CITY prior to the performance of such services.

XV. EXECUTION BECOMES EFFECTIVE

This Agreement will be effective upon execution of the contract by and between CONSULTANT and CITY.

XVI. AGREEMENT AMENDMENTS

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
CREATION OF UNIFIED DEVELOPMENT CODE - PROFESSIONAL SERVICES AGREEMENT

this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

XVII. GENDER AND NUMBER

The use of any gender in this Agreement shall be applicable to all genders, and the use of singular number shall include the plural and conversely.

XVIII. COMPLETE CONTRACT

This Agreement, including the Exhibits lettered "A" through "C", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

XIX. NOTICES AND AUTHORITY

A. The CONSULTANT agrees to send all notices required under this Agreement to the City Manager of the City of New Braunfels, or his designee, at 550 Landa Street, New Braunfels, Texas 78130. The CONSULTANT understands that only the City Manager or his designee has the authority to represent the CITY or bind the CITY under this Agreement.

B. The CITY agrees to send all notices required under this Agreement to the CONSULTANT at:

BY: _____
TITLE: _____
ADDRESS: _____

(Signatures on Following Page)

ATTACHMENT C – SAMPLE PROFESSIONAL SERVICES CONTRACT
CREATION OF UNIFIED DEVELOPMENT CODE - PROFESSIONAL SERVICES AGREEMENT

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and day first above written.

OWNER
THE CITY OF NEW BRAUNFELS

FIRM'S COMPANY NAME

BY: _____
Robert Camareno

BY: _____

TITLE: CITY MANAGER

TITLE: _____

ADDRESS:
550 Landa Street
New Braunfels, TX 78130

ADDRESS:
