

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
DEPARTMENT OF AVIATION**

CONSENT AGENDA

ITEM NO. _____

9

TO: Mayor and City Council

FROM: Kevin C. Dolliole, Aviation Director

THROUGH: Terry M. Brechtel, City Manager

COPIES: Christopher J. Brady, Office of Management and Budget, Finance, Public Works, File

SUBJECT: Professional Services Contract for the Sky Place Boulevard Realignment and Drainage Project at San Antonio International Airport

DATE: October 23, 2003

SUMMARY & RECOMMENDATION

The proposed ordinance designates the firm of Vickrey & Associates, Inc. to provide engineering services in connection with the Sky Place Boulevard Realignment and Drainage Project at SAT; authorizes the execution of a Professional Services contract in an amount not to exceed \$378,928.00, plus \$38,000.00 for contingency expenses and \$12,000.00 for administrative expenses and revises the Project budget.

The drainage portion of this Project is eligible for FAA grant funding. This ordinance appropriates \$680,333.00 for the required matching share of FAA Grant No. 46, accepted by City Council on August 14, 2003 in the amount of \$2,041,000.00, for a total amount of \$2,721,333.00 for the drainage portion of this Project.

The realignment of Sky Place Boulevard is a street project, which is not eligible for FAA grant funding. This ordinance appropriates \$154,945.00 for engineering fees, \$15,600.00 for contingent expenses and \$6,000.00 for administrative expenses.

The total appropriation to be approved by this ordinance is \$856,878.00, of which \$680,333.00 is matching funds for FAA Grant No. 46 and \$176,545.00 for the street engineering, contingent and administrative expenses.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

This Project is located on the north side of International Airport near the intersection of Sky Place Boulevard with Nakoma/Jones Maltsberger, and includes the construction of an underground drainage system along with the re-alignment of Sky Place Boulevard.

The purpose of the new drainage is to replace the current open channel that parallels Sky Place Boulevard with an underground system. Once completed, this area, encompassing approximately 16 acres, will then be available for new tenant development. The purpose of the Sky Place Boulevard re-alignment is to relocate the intersection with Nakoma approximately 900 feet to the northwest, aligning with Gordon Road. This will result in a safer, more efficient ingress and egress to this area of the Airport. This intersection will be signalized to further improve safety.

The City requested Interest Statements from consulting firms desiring to provide engineering services for this Project. A total of twenty (20) qualified interest statements were received. All proposals received for this Project were evaluated by City staff based on capability, past experience, knowledge and familiarity with similar projects. The City Architect/Engineer Selection Committee reviewed the ratings and recommended that the firm of Vickrey and Associates, Inc. be selected for negotiation of a contract for this Project based upon its demonstrated ability, qualifications and experience. It should be noted that Vickrey and Associates ranked second in the overall ratings. However, the first ranked firm had been recently selected as part of the team for the Terminal Expansion Project. A copy of the rating sheet is attached. In keeping with the policy of equitably distributing projects when the quality of service to the City will not be compromised, it was decided to recommend Vickrey and Associates for this Project.

This Project consists of the two distinct but strongly linked projects. The re-alignment of Sky Place Boulevard is a street project, which is not eligible for FAA grant funding. The drainage portion consists of enclosing an open storm drainage ditch with a box culvert system, which is eligible for FAA grant funding. Due to the proximity of these two projects and the resultant engineering considerations required for a cohesive design, the two projects have been integrated into one design contract. However, the financing has been segregated in order to ensure that eligibility issues are not compromised. As such separate accounts and funding sources will be established through this ordinance.

POLICY ANALYSIS

This proposed action continues the policy of improving facilities at San Antonio International Airport and utilizing federal funding when available.

FISCAL IMPACT

The total appropriation for this proposed action is \$856,878.00, which includes \$680,333.00 for the matching share (25%) of FAA Grant No. 46 (drainage portion of Project) and \$176,545.00 for engineering, contingent and administrative expenses relating to the street realignment of this Project.

The \$680,333.00 in matching funds together with the FAA Grant No. 46 portion of this amount to \$2,041,000.00, which establishes a total of \$2,721,333.00 for the drainage portion of this Project. Of this amount, \$223,983.00 is for engineering, \$22,400.00 is for contingent, and \$6,000.00 administrative expenses for a total of \$252,383.00.

For the street portion of this Project, this ordinance appropriates \$154,945.00 for engineering fees, \$15,600.00 for contingent expenses and \$6,000.00 for administrative expenses.

COORDINATION

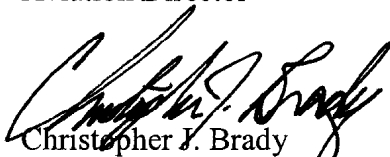
This request for ordinance has been coordinated with the Public Works, Finance and Management and Budget Departments.

SUPPLEMENTARY COMMENTS

The Discretionary Contract Disclosure signed by Vickrey & Associates, Inc. is attached.



Kevin C. Dolliole
Aviation Director



Christopher J. Brady
Assistant City Manager

APPROVED:



Terry M. Brechtel
City Manager

PROJECT: Sky Place Boulevard Drainage & Infrastructure Improvements

at

San Antonio International Airport

ARCHITECT/ENGINEER STATEMENT OF INTEREST REVIEW

CITY OF SAN ANTONIO

No.	Architect/Engineer Candidates	Weight Factors	10	15	15	15	20	5	10	5	5	100
			Design and Creative Ability of Firm/Team	Construction Document & Technical Capability of Firm/Team	Construction Administration Capability of Firm/Team	Capability of Subconsultants	Firm's Suitability Familiarity for Project Type/Scope	*Special Considerations	**Locally Headquartered Business Enterprise	** Disadvantaged Business Enterprise (DBE)	** Small Business Economic Development Advocacy Policy Compliance (SBEDA)	Total Rating
1	Civil Engineering Consultants		8.00	12.33	11.67	12.67	14.33	4.00	10	1.75	3	77.8
2	Vickrey & Associates, Inc.		7.67	10.00	11.00	11.33	12.67	3.33	10	5	3	74.0
3	Jaster Quintanilla San Antonio, LLP		8.00	12.00	9.33	10.00	11.67	3.00	10	5	3	72.0
4	Garcia & Wright Consulting Engineers, Inc.		7.33	11.67	12.00	7.67	12.67	3.00	10	5	2	71.3
5	PBS&J		7.67	11.67	12.00	11.33	14.67	3.67	6	0	4	71.0
6	Carter & Burgess, Inc		7.00	11.67	11.00	11.67	13.33	3.33	6	0	3	67.0
7	Claunch & Miller, Inc.		7.67	11.67	11.67	13.00	14.00	3.67	2	0	3	66.7
8	K.M. Ng & Associates, Inc.		7.33	9.67	9.67	8.67	10.67	3.67	10	5	2	66.7
9	HDR Engineering, Inc		7.67	12.00	10.33	9.00	13.33	2.00	6	1.4	4	65.7
10	Pape Dawson Engineers, Inc.		7.67	8.00	8.67	11.67	10.33	3.33	10	1.25	3	63.9
11	GGI Engineers		7.00	9.33	9.33	9.00	9.67	2.33	10	5	2	63.7
12	Lockwood Andrews & Newnan, Inc.		7.00	11.00	10.33	11.33	11.67	3.33	6	0	3	63.7
13	Parsons Brinckerhoff Quade & Douglas, Inc.		7.00	10.67	11.00	10.00	12.33	3.00	6	0	3	63.0
14	Maestas & Bailey, Inc.		7.00	11.33	9.67	5.67	10.00	1.67	10	5	2	62.3
15	S.M. Galindo Engineers, Inc.		6.33	9.33	8.00	9.00	9.33	2.67	10	5	2	61.7
16	Brown Engineering Co.		6.33	10.33	8.67	7.67	10.33	3.00	10	1	4	61.3
17	Turner Collie & Braden, Inc		7.33	10.33	10.67	9.67	11.67	2.67	6	0	2	60.3
18	Slay Engineering Co., Inc		7.00	9.33	9.33	10.00	11.33	2.00	10	0	1	60.0
19	SIA Engineering, Inc.		6.33	8.67	6.67	3.67	7.33	2.67	10	5	2	52.3
20	Alamo Consulting Engineers & Surveying, Inc.		5.67	8.33	7.33	3.67	6.00	1.67	10	0	1	43.7
21												
22												
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26												

Notes: * Special Considerations - special expertise regarding codes, ADA, rules, regulations, regulatory agency criteria, etc. of: TNRCC (Texas Natural Resource Conservation Commission), HDRC (Historic and Design Review Commission) and other as applicable to this project.

** Percentages for Locally Headquartered Businesses, DBE firms and Small Business Economic Development Advocacy policy compliance will be provided by Economic Development Department.

Reviewer: Summary by Ratings

Date:

City of San Antonio Discretionary Contracts Disclosure

For use of this form, see City of San Antonio Ethics Code, Part D, Section 1 & 2

Disclosure of Parties, Owners, and Closely Related Persons

For the purpose of assisting the city in the enforcement of provisions contained in the City Charter and the code of ethics, an individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any individual who would be a party to the discretionary contract:

N/A

(2) the identity of any business entity¹ that would be a party to the discretionary contract:

and the name of:

(A) any individual or business entity that would be a subcontractor on the discretionary contract;

Vickrey & Associates, Inc.

and the name of:

(B) any individual or business entity that is known to be a partner, or a parent or subsidiary business entity, of any individual or business entity who would be a party to the discretionary contract;

N/A

(3) the identity of any lobbyist or public relations firm employed for purposes relating to the discretionary contract being sought by any individual entity who would be a party to the discretionary contract.

N/A

Political Contributions

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any current or former member of City Council, any candidate for the City Council, or to any political action committee that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

To Whom Made:	Amount	Date of Contribution
Ed Garza	1,250.00	2002, 2003
Art Hall	1,000.00	2002, 2003
Carol Schubert	1,600.00	2002, 2003
Julian Castro	1,000.00	2002, 2003
Enrique Barrera	1,000.00	2002, 2003
Patti Radle	1,000.00	2002, 2003
Chip Haas	500.00	2003
Richard Perez	1,250.00	2002, 2003
Ron Segovia	500.00	2003

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B by participating in official action relating to the discretionary contract.

Signature:



Printed Name: Brenda Vickrey Johnson

Title: President

Company: Vickrey & Associates, Inc.

Date:

October 6, 2003

¹ A *business entity* means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust unincorporated association, or any other entity recognized by law.

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES**

STATE OF TEXAS

COUNTY OF BEXAR

AGREEMENT FOR

Sky Place Boulevard Re-Alignment and Drainage at San Antonio International Airport

This AGREEMENT is made and entered into by and between the City of San Antonio (hereinafter referred to as "**CITY**"), a Texas Municipal Corporation acting by and through its City Manager, pursuant to Ordinance No. _____, passed and approved on the _____ day of _____, 200__ and Vickrey & Associates, Inc., by and through its _____, _____ (hereinafter referred to as "**CONSULTANT**"), both of which may be referred to herein collectively as the "**PARTIES**".

IN CONSIDERATION of the mutual covenants, terms, conditions, privileges and obligations herein contained, **CITY** and **CONSULTANT** do hereby agree as follows:

I. DEFINITIONS

As used in this AGREEMENT, the following terms shall have meanings as set out below:

1.1 "Director" means the director of **CITY**'s Public Works Department, or the designated project manager identified by the Notice to Proceed.

1.2 "Project" means the capital improvement/construction development undertaking of **CITY** for which **CONSULTANT**'s design services, as stated in the Scope of Services, are to be provided pursuant to this AGREEMENT.

1.3 "Ab Initio" means from the beginning; from the first act; from the inception. *See Black's Law Dictionary, 5th Ed., © 1983.*

1.4 "Respondeat Superior" means let the master answer. This maxim means that a master is liable in certain cases for the wrongful acts of his servant, and a principal for those of his agent. *See Black's Law Dictionary, 5th Ed., © 1983.*

II. PERIOD OF SERVICE

This AGREEMENT shall take effect on the eleventh (11th) calendar day after it is approved by the San Antonio City Council or upon execution by both parties, whichever date is later, and continue in full force and effect for the period required for completion of the duties as set forth in the Scope of Services.

III. SCOPE OF SERVICES

3.1 **CONSULTANT** shall not commence work until **CONSULTANT** has been thoroughly briefed on the scope of Project, and has been notified in writing by Director to proceed. **CONSULTANT** shall provide a written summary of the scope meeting, including a description of the Project's scope and **CONSULTANT's** services required by said scope. Should the scope subsequently change, either party may request a review of the anticipated services, with an appropriate adjustment in fees; however, such adjustment cannot exceed the maximum allowed for additional services in Article V, Compensation, and cannot substantially alter the original scope of this AGREEMENT.

3.2 **CONSULTANT**, in consideration for the compensation herein provided, shall render the professional services necessary for the development of the Project to substantial completion, including plans and specifications, construction services and any special and general conditions and instruction to bidders as acceptable to Director.

3.3 **CONSULTANT** shall be represented by a professional engineer licensed to practice in the State of Texas at meetings of any official nature concerning the Project, including but not limited to scope meetings, review meetings and other meetings as may be required by the Project development process. All design submittals shall carry the signature and seal or, in the case of progress, or incomplete submittals, an appropriate disclaimer with the professional engineer's name and license number, with the date of the submittal adjacent thereto of a licensed professional engineer.

3.4 **CONSULTANT** shall complete the various phases of work listed in this Article III "Scope of Services", including all attachments hereto, in accordance with the Production Schedule in Attachment "B" of this AGREEMENT. Director may, in writing, extend any delivery dates contained in said Attachment "B", Production Schedule, as requested by **CONSULTANT**.

3.5 Upon acceptance and approval of the plans, reports or other producibles required for a phase of work, as set forth in the Scope of Services, Director shall authorize **CONSULTANT**, in writing, to proceed with the next phase of work.

3.6 The following is a list of all the documents that comprise the Scope of Services for this Project: Each such document is attached hereto and incorporated herein for all purposes. **CONSULTANT** agrees to perform all work required by this Scope of Services.

3.6.1 ATTACHMENT "A" (Scope of Services)

3.6.2 ATTACHMENT "B" – (Production Schedule)

3.6.3 ATTACHMENT "C" – (Consultant's Fee Proposal and SBEDA Participation Statement
From Consultant's Interest Statement)

3.6.4 ATTACHMENT "D" – (Grant Assurances)

IV. COORDINATION WITH THE CITY

4.1 **CONSULTANT** shall hold periodic conferences with Director, so that the project, as developed, shall have the full benefit of **CITY**'s experience and knowledge of existing needs and facilities and be consistent with its current policies and standards. No more than two conferences shall be held per phase, unless otherwise agreed to by Parties. **CITY** shall make available, for **CONSULTANT**'s use, all existing plans, maps, field notes, statistics, computations, and other data in its possession relative to existing facilities and to this Project as may be requested by **CONSULTANT** at no cost to **CONSULTANT**.

4.2 Director shall act on behalf of **CITY** with respect to the work performed under this AGREEMENT. He shall have complete authority to transmit instructions, receive information, and interpret and define **CITY**'s policies and decisions with respect to materials, equipment elements and systems pertinent to **CONSULTANT**'s services.

4.3 **CITY** shall provide written notice to the **CONSULTANT** of any errors or omissions discovered in the **CONSULTANT**'s services, or performance, or of any development that affects the scope or timing of **CONSULTANT**'s services.

4.4 **CONSULTANT** shall complete all applications and furnish all required data, as set forth in the Scope of Services, compiled by **CONSULTANT** for **CITY**'s use in obtaining any permits or approvals from governmental authorities having jurisdiction over the Project as may be necessary for completion of the Project. **CONSULTANT** shall not be obligated to develop additional data, prepare extensive reports or appear at hearings in order to obtain said permits or approvals, unless compensated therefore as provided in Article V, entitled "Compensation".

V. COMPENSATION

5.1 For and in consideration of the services to be rendered by **CONSULTANT**, **CITY** shall pay **CONSULTANT** the fee set forth in this Article V, Compensation. **CITY** may request **CONSULTANT** to perform an engineering study to refine the Project scope. Payment for such a study will be negotiated in accordance with Article V, Section 5.5 herein.

5.2 Nothing contained in this AGREEMENT shall require **CITY** to pay for any unsatisfactory work, as determined by Director, or for work that is not in compliance with the terms of this AGREEMENT. **CITY** shall not be required to make any payments to **CONSULTANT** at any time **CONSULTANT** is in default under this AGREEMENT.

5.3 BASIS FOR COMPENSATION

A. The total fee for **CONSULTANT**'s base work as defined in the Scope of Services shall be as a lump sum of Three Hundred Sixty Seven Thousand Three Hundred Thirty Seven and 00/100 dollars (\$367,337.00).

B. **CONSULTANT** may submit invoices for partial payment prior to submittal of review documents as outlined below. **CONSULTANT** must submit a written progress report

detailing work performed for the billing period reflected in the invoice. A partial payment made must be in proportion to the work performed as reflected in the report and approved by Director. Partial payments shall be payable no later than thirty (30) days following acceptance by Director. Partial payments shall not exceed 70% of each phase prior to acceptance of that phase by **CITY**. The balance due for that phase will be paid upon acceptance of the phase by **CITY**. **CITY** shall have no more than 45 days from the date of submittal within which to review and approve or reject said phase. If no action has been taken by Director at the expiration of the 45 day review period, said phase shall be deemed approved. If any phases are authorized to be omitted then the percentage allocation will be applied to the next appropriate phase. Payments shall be made to the **CONSULTANT** in accordance with Attachment C.

5.4 MODIFICATIONS - **CONSULTANT** and **CITY** acknowledge the fact that the base fee as determined in section 5.3(A) above has been established predicated upon the total estimated costs of services to be rendered under the AGREEMENT. For additional services, compensation shall be subject to renegotiations in accordance with section 5.5 below.

5.5 COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

CONSULTANT may be required to perform the additional services listed in 5.5(B) below, subject to appropriations having been made therefore, in connection with this AGREEMENT. Should **CONSULTANT** be directed in writing by Director to perform these services, compensation shall be paid by **CITY** to **CONSULTANT** as authorized in writing by Director, as follows:

A. The basis for compensation for additional services may be in one or more of the following forms:

- (1) Rate for testimony of principals to be negotiated.
- (2) Non-Principal - Salary cost times a multiplier of 2.5 with a stated maximum not to be exceeded.
- (3) Principal – hourly rate set forth in 5.5(D) herein with a stated maximum not to be exceeded.
- (4) Reimbursement of non-labor expenses and **CITY** directed subcontract expenses at invoice cost plus a 15% service charge.
- (5) Lump sum per item of work to be negotiated.
- (6) Lump sum to be negotiated.

B. Additional services include, but are not limited to the following:

- (1) Assistance to **CITY** as an expert witness in any litigation with third parties, arising from the development or construction of the Project including the preparation of engineering data and reports.
- (2) Preparation of plats and field notes for acquisition of property required for the construction of the project.
- (3) Site visits for ROW pin locating and/or setting for utility companies.

- (4) Preparation of applications and supporting documents for governmental grants, loans, or advances in connection with the Project.
- (5) Preparation or review of environmental assessments and impact statements.
- (6) Review and evaluation of the effect on design requirements of the Project of any assessments, statements, or documents prepared by others.
- (7) Assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
- (8) Revising previously accepted studies, reports, design documents or AGREEMENT documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes, standards, design criteria or orders enacted subsequent to the preparation of such studies, reports, and documents, or are due to causes beyond **CONSULTANT's** control.
- (9) Preparation of feasibility studies not required in the base AGREEMENT.
- (10) Detailed quantity surveys of materials, equipment and labor during or after construction phase.
- (11) Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions by **CITY** proposed by the **CONTRACTOR** retained to construct the designed Project; and services after the award of each **CONTRACT** in evaluating and determining the acceptability of an unreasonable and excessive number of substitutions proposed by **CONTRACTOR**.
- (12) Services after the completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantee called for in any contract for the Project.
- (13) Additional copies of reports, drawings and specifications over the number specified in the base AGREEMENT.
- (14) Preparation of all documents dealing with 404 permits, highway permits, and railroad agreements.
- (15) Preparation of driveway plats.
- (16) Obtaining Right of Entry Agreements on behalf of **CITY** for driveway penetrations.
- (17) Detailed measurements and surveys for exploration for utilities, if required.
- (18) Preparation of record drawing after completion of work by **CONTRACTOR**.
- (19) Actual performance of test borings and other soil or foundation investigations and related analysis.
- (20) Tree surveys.

C. Salary Cost - Salary cost is defined as the cost of salaries of engineers, draftsmen, stenographers, surveyors, clerks, laborers, etc. for time directly chargeable to the Project, plus customary and statutory benefits including but not limited to social security contributions, unemployment, excise and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation and holiday pay applicable thereto.

- a. The amount of customary and statutory benefits of all personnel other than Principals of the Consulting Firm will be considered equal to 50% of salaries or wages.

D. Principals of the Consulting Firm - For the purpose of this provision, the Principals of the Consulting Firm and their total hourly charge will be as follows, except as stated previously for testimony as expert witnesses:

<u>Principal Name</u>	<u>Hourly Charge</u>
Brenda Johnson	\$140.00

5.6 MAXIMUM COMPENSATION FOR ADDITIONAL SERVICES – Total cumulative costs for the additional services listed in Section 5.5 or in Article VI below shall not exceed that amount appropriated by CITY as set forth in the ordinance authorizing this AGREEMENT, without prior authorization of the San Antonio City Council by passage of an ordinance therefore.

VI. REVISIONS TO DRAWINGS AND SPECIFICATIONS

CONSULTANT shall provide, at no expense to **CITY**, reasonable minor revisions to any phase, whether previously approved and accepted, as may be required to satisfy the scope of services established by this AGREEMENT. Approval of any phase constitutes **CITY's** acceptance of the design presented. After acceptance of each phase of the Project, any revisions, additions, or modifications made at **CITY's** request which constitute a change in the Scope of Services shall be subject to additional compensation to **CONSULTANT** as agreed upon by **CITY**, subject to Article V, Section 5.6 above.

VII. OWNERSHIP OF DOCUMENTS

7.1 **CONSULTANT** acknowledges and agrees that **CITY** shall own exclusively any and all information in whatsoever form and character produced and/or maintained in accordance with, pursuant to, or as a result of this AGREEMENT and shall be used as **CITY** desires and shall be delivered to **CITY** at no additional cost to **CITY** upon request or completion or termination of this AGREEMENT without restriction on future use.

7.2 **CONSULTANT** agrees and covenants to protect any and all proprietary rights of **CITY** in any materials provided to **CONSULTANT**. Such protection of proprietary rights by **CONSULTANT** shall include, but not be limited to, the inclusion in any copy intended for publication of copyright mark reserving all rights to **CITY**. Additionally, any materials provided to **CONSULTANT** by **CITY** shall not be released to any third party without the consent of **CITY** and shall be returned intact to **CITY** upon completion or termination of this AGREEMENT.

7.3 **CONSULTANT** hereby assigns all statutory and common law copyrights to any copyrightable work that in part or in whole was produced from this AGREEMENT to **CITY**, including all moral rights. No reports, maps, documents or other copyrightable works produced in whole or in part by this AGREEMENT shall be subject of an application for copyright by **CONSULTANT**. All reports, maps, project logos, drawings or other copyrightable work produced under this AGREEMENT shall

become the property of **CITY** (excluding any instrument of services, unless otherwise specified herein). **CONSULTANT** shall, at its expense, defend all suits or proceedings instituted against **CITY** and pay any award of damages or loss resulting from an injunction, against **CITY**, insofar as the same are based on any claim that materials or work provided under this **AGREEMENT** constitute an infringement of any patent, trade secret, trademark, copyright or other intellectual property rights.

7.4 **CONSULTANT** may make copies of any and all documents and items for its files. **CONSULTANT** shall have no liability for changes made to or use of the drawings, specifications and other documents by other engineers, or other persons, subsequent to the completion of the Project. **CITY** shall require that any such change or other use shall be appropriately marked to reflect what was changed or modified.

7.5 Copies of documents that may be relied upon by **CITY** are limited to the printed copies (also known as hard copies) that are sealed and signed by **CONSULTANT**. Files in electronic media format of text, data, graphics, or other types that are furnished by **CONSULTANT** to **CITY** are only for convenience of **CITY**. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

VIII. TERMINATION AND/OR SUSPENSION OF WORK

8.1 For purposes of this **AGREEMENT**, termination of this **AGREEMENT** shall mean termination by expiration of the **AGREEMENT** term or earlier termination pursuant to any of the provisions hereof.

8.2 Termination Without Cause.

8.2.1 This **AGREEMENT** may be terminated by either party upon written notice in accordance with Article XVIII, Notice. Such notice must specify an effective date of termination, which shall be not less than thirty (30) calendar days after the date of receipt of the notice by the other Party. If the notice does not specify a date of termination, the effective date of termination shall be thirty (30) calendar days after receipt of the notice by the other Party.

8.2.2 This **AGREEMENT** may be terminated by **CITY** prior to Director giving **CONSULTANT** written notice to proceed pursuant to Article III, Section 3.1, should Director, at his sole discretion, determine that it is not in **CITY's** best interest to proceed with this **AGREEMENT**. Such notice shall be provided in accordance with Article XVIII, Notice and shall be effective upon delivery by **CITY** in accordance with Article XVIII.

8.2.3 **CITY** shall equitably compensate **CONSULTANT** in accordance with the terms of this **AGREEMENT** for the Services properly performed prior to the effective date of termination, following inspection and acceptance of same by **CITY**. **CONSULTANT** shall not, however, be entitled to lost or anticipated profits should **CITY** choose to exercise its option to terminate.

8.3 Defaults With Opportunity for Cure.

Should **CONSULTANT** fail to provide the required designs and/or documents required by Article III, Scope of Services by the due dates establish in Article III, Attachment B, Production Schedule, in acceptable form, as indicated in said Scope of Services as approved by Director, same shall be considered a default. However, Parties agree that no default shall be considered to occur where **CONSULTANT's** failure to provide the designs and/or documents is directly caused by the actions of **CITY**. **CITY** shall deliver written notice of said default specifying such matter(s) in default. **CONSULTANT** shall have ten (10) days after receipt of the written notice, in accordance with Article XVIII, Notice, to cure such default. If **CONSULTANT** fails to cure the default within such ten-day cure period, **CITY** shall have the right, without further notice, to terminate this AGREEMENT in whole or in part as **CITY** deems appropriate, and to CONTRACT with another contractor to complete the work required in this AGREEMENT. **CITY** shall also have the right to offset the cost of said new CONTRACT with a new contractor against **CONSULTANT's** future or unpaid invoice(s), subject to the duty on the part of **CITY** to mitigate its losses to the extent required by law.

8.4 Termination For Cause. Upon written notice, **CITY** may terminate this AGREEMENT upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this AGREEMENT:

8.4.1 **CONSULTANT** makes or allows to be made any material misrepresentation or provides any materially misleading information in connection with this AGREEMENT, including, but not limited to, **CONSULTANT's** Interest Statement, or any covenant, obligation, term or condition contained in this AGREEMENT; or

8.4.2 **CONSULTANT** violates or fails to perform any covenant, provision, obligation, term or condition of a material nature contained in this AGREEMENT, except those events of default for which an opportunity to cure is provided herein; however, if such default as provided in Section 8.3, Defaults with Opportunity for Cure, exceeds the following, same shall be considered an Event for Cause, subject to the remedies as provided herein:

(A) **CONSULTANT** fails to cure a default listed in Section 8.3 within the time period required for cure; or

(B) **CONSULTANT** is in default as provided in Section 8.3 on more than one occasion in any consecutive twelve (12) month period.

8.4.3 **CONSULTANT** attempts to assign this AGREEMENT contrary to the terms hereof; or experiences a change in ownership interest greater than thirty percent (30%), or control of its business entity; or

8.4.4 **CONSULTANT** ceases to do business as a going concern; makes an assignment for the benefit of creditors; admits in writing its inability to pay debts as they become due; files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is

continued and performance of all its obligations under this AGREEMENT shall continue); or if a receiver, trustee or liquidator is appointed for it or any substantial part of **CONSULTANT's** assets or properties; or

8.4.5 **CONSULTANT** fails to comply in any respect with the insurance requirements set forth in this AGREEMENT; or

8.4.6 **CONSULTANT** violates any rule, regulation or law by which **CONSULTANT** is bound or shall be bound while and in performing the services required under this AGREEMENT.

8.5 **Termination By Law.** If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this AGREEMENT shall automatically terminate as of the effective date of such prohibition.

8.6 **Effect of Termination.** Notwithstanding Section 8.3, Defaults with Opportunity for Cure, upon a decision to terminate by **CITY**, written notice of such shall be immediately provided to **CONSULTANT** specifying the effective date of termination, notice of which shall be given in accordance with Article XVIII, Notice.

8.6.1 Regardless of how this AGREEMENT is terminated, and subject to 8.6.2, **CONSULTANT** shall affect an orderly transfer to **CITY** or to such person(s) or firm(s) as the **CITY** may designate, at no additional cost to **CITY**, all completed or partially completed specifications and reproducibles of all completed or partially completed designs and plans prepared pursuant to this AGREEMENT, documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by **CONSULTANT**, or provided to **CONSULTANT**, hereunder in accordance with Article VII, Ownership of Documents. Any record transfer shall be completed within thirty (30) calendar days of the termination date and shall be completed at **CONSULTANT's** sole cost and expense. Payment of compensation due or to become due to **CONSULTANT** is conditioned upon delivery of all such documents.

8.6.2 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this AGREEMENT, **CONSULTANT** shall submit to **CITY** its claims, in detail, for the monies owed by **CITY** for services performed under this AGREEMENT through the effective date of termination. Failure by **CONSULTANT** to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of **CITY** and constitute a **Waiver** by **CONSULTANT** of any and all right or claims to collect moneys that **CONSULTANT** may rightfully be otherwise entitled to for services performed pursuant to this AGREEMENT.

8.6.3 Upon the effective date of expiration or termination of this AGREEMENT, **CONSULTANT** shall cease all operations of work being performed by **CONSULTANT** or any of its subcontractors pursuant to this AGREEMENT.

8.6.4 **Termination not sole remedy.** In no event shall **CITY's** action of terminating this **AGREEMENT**, whether for cause or otherwise, be deemed an election of **CITY's** remedies, nor shall such termination limit, in any way, at law or at equity, **CITY's** right to seek damages from or otherwise pursue **CONSULTANT** for any default hereunder or other action.

8.7 Right of **CITY** to Suspend Giving Rise to Right of **CONSULTANT** to Terminate.

8.7.1 **CITY** may suspend this **AGREEMENT** at the end of any phase for the convenience of **CITY** by issuing a signed, written notice of suspension (citing this paragraph) as provided in Article XVIII, Notice, which shall outline the reasons for the suspension and the duration of the suspension. However, it is understood and agreed by the Parties that the total number of days of suspension as reflected in said notice is not guaranteed, and in fact, may be shorter or longer. Such suspension shall take effect upon the date set forth in the notice, or if no date is set forth, immediately upon **CONSULTANT's** receipt of said notice.

8.7.2 **CONSULTANT** may terminate this **AGREEMENT** in the event such suspension exceeds one hundred and twenty (120) calendar days. **CONSULTANT** may exercise this right to terminate by issuing a signed, written notice of termination, in accordance with Article XVIII, Notice, (citing this paragraph) to **CITY** after the expiration of one hundred and twenty (120) calendar days from the effective date of the suspension. Termination pursuant to this paragraph shall become effective immediately upon receipt of said written notice by **CITY**.

8.8 Procedures for **CONSULTANT** to follow upon Receipt of Notice of Suspension.

8.8.1 Upon receipt of written notice of suspension, **CONSULTANT** shall, unless the notice otherwise directs, immediately discontinue all services in connection with the performance of this agreement and cancel all existing orders and contracts.

8.8.2 **CONSULTANT** shall prepare a statement showing in detail the services performed under this agreement prior to the effective date of suspension.

8.8.3 All completed or partially completed designs, plans and specifications prepared under this agreement prior to the effective date of suspension shall be prepared for possible delivery to **CITY** but shall be retained by **CONSULTANT** until such time as **CONSULTANT** may exercise the right to terminate.

8.8.4 In the event that **CONSULTANT** exercises the right to terminate after the suspension date as provided by this Article, within thirty (30) calendar days after receipt by **CITY** of **CONSULTANT's** notice of termination, **CONSULTANT** shall submit the above referenced statement showing in detail the services performed under this agreement prior to the effective date of suspension. Nothing in this section 8.8.4 shall prevent **CONSULTANT** from submitting invoices for partial payments for work performed prior to the termination date as provided by Article V, Compensation.

8.8.5 Additionally, any documents prepared in association with this AGREEMENT shall be delivered to **CITY** by **CONSULTANT**, as a pre-condition to final payment, within thirty (30) calendar days after receipt by **CITY** of **CONSULTANT's** notice of termination.

8.8.6 Upon the above conditions being met, **CITY** shall pay **CONSULTANT** that proportion of the prescribed fee which the services actually performed under this agreement bear to the total services called for under this agreement, less previous payments of the fee.

8.8.7 **CITY**, as a public entity, has a duty to document the expenditure of public funds. **CONSULTANT** acknowledges this duty on the part of **CITY**. To this end, **CONSULTANT** understands that failure of **CONSULTANT** to substantially comply with the submittal of the statements and documents as required herein shall constitute a waiver by **CONSULTANT** of any portion of the fee for which **CONSULTANT** did not supply such necessary statements and/or documents.

IX. INSURANCE REQUIREMENTS

9.1 Prior to the commencement of any work under this AGREEMENT, **CONSULTANT** shall furnish an original completed Certificate of Insurance to **CITY's** Public Works Department and **CITY's** Risk Management Division, and shall be clearly labeled "INSERT NAME OF PROJECT", which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to **CITY**. **CITY** shall have no duty to pay or perform under this AGREEMENT until such certificate shall have been delivered to **CITY's** Public Works Department and **CITY's** Risk Management Office, and no officer or employee shall have authority to waive this requirement.

9.2 **CONSULTANT's** financial integrity is of interest to **CITY**, therefore, subject to **CONSULTANT's** right to maintain reasonable deductibles in such amounts as are approved by **CITY**, **CONSULTANT** shall obtain and maintain in full force and effect for the duration of this AGREEMENT, and any extension hereof, at **CONSULTANT's** sole expense, insurance coverage written on an occurrence basis, except for professional liability, by companies authorized, approved or admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to **CITY**, in the following types and amounts:

TYPE

MINIMUM AMOUNTS

1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Commercial General (public) Liability Insurance to include coverage for the	Combined <u>Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per;

following: a. Premises/Operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual liability	General Aggregate limit of \$5,000,000 occurrence or its equivalent in umbrella or excess liability coverage
4. Business Automobile Liability a. Owned/Leased Vehicles b. Non-Owned Vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence
5. Professional Liability (Claims made form)	\$1,000,000 per claim to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any negligent act, malpractice, error or omission in professional services.

9.3 **CITY** shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by **CITY**. **CONSULTANT** shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to **CITY** at the address provided in Article IX herein within 10 days of the requested change.

9.4 **CONSULTANT** agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- Name **CITY** and its officers, employees, and elected representatives as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under contract with **CITY**, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where **CITY** is an additional insured shown on the policy;
- Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of **CITY**.

9.5 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by **CITY**, **CONSULTANT** shall notify **CITY** of such and shall give such notices not less than thirty (30) days prior to the change, if **CONSULTANT** knows of said change in advance, or ten (10) days notice after the change, if the **CONSULTANT** did not know of the change in advance. In the event of cancellation or non-renewal, such notice must be accompanied by a replacement Certificate of Insurance. All notices under this Article shall be given to **CITY** at the following addresses:

City of San Antonio	City of San Antonio
Aviation Department – Planning & Eng	Risk Management
9800 Airport Blvd.	506 Dolorosa
San Antonio, Texas 78216	San Antonio, Texas 78205

9.6 If **CONSULTANT** fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, **CITY** may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the AGREEMENT; however, procuring of said insurance by **CITY** is an alternative to other remedies **CITY** may have, and is not the exclusive remedy for failure of **CONSULTANT** to maintain said insurance or secure such endorsement. In addition to any other remedies **CITY** may have upon **CONSULTANT**'s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, **CITY** shall have the right to order **CONSULTANT** to stop work hereunder, and/or withhold any payment(s) which become due to **CONSULTANT** hereunder until **CONSULTANT** demonstrates compliance with the requirements hereof. A stop work order given to **CONSULTANT** by **CITY** in accordance with this Article shall not constitute a Suspension of Work pursuant to Article VIII, Section 8.7.

9.7 Nothing herein contained shall be construed as limiting in any way the extent to which **CONSULTANT** may be held responsible for payments of damages to persons or property resulting from **CONSULTANT**'s or its subcontractors' performance of the work covered under this AGREEMENT.

9.8 It is agreed that **CONSULTANT**'s insurance shall be deemed primary with respect to any insurance or self insurance carried by **CITY** of San Antonio for liability arising out of operations under this AGREEMENT.

X. INDEMNIFICATION

10.1 CONSULTANT, whose work product is the subject of this AGREEMENT for engineering services, agrees to INDEMNIFY AND HOLD CITY, ITS ELECTED OFFICIALS, OFFICERS AND EMPLOYEES HARMLESS against any and all claims, lawsuits, judgments, cost, liens, losses, expenses, fees (including attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury (including death), property damage, or other harm for which recovery of damages is sought that may ARISE OUT OF OR BE OCCASIONED OR CAUSED BY CONSULTANT'S NEGLIGENT ACT, ERROR, OR OMISSION OF CONSULTANT, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANT OF CONSULTANT, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES while in the exercise of performance of the rights or duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED

COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

10.2 CONSULTANT shall advise CITY in writing within 24 hours of any claim or demand against CITY or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT's activities under this AGREEMENT.

10.3 The provisions of this section are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

XI. ENGINEER'S LIABILITY

11.1 Acceptance of the final plans by CITY shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or subcontractors for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by CITY for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, subcontractors, and agents.

11.2 Standard of Care: Services provided by CONSULTANT under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

XII. LICENSING

CONSULTANT shall utilize qualified personnel to complete the work to be performed under this AGREEMENT, and all work performed under this AGREEMENT is to be executed under the direct supervision of a licensed professional engineer as required by state law. Persons retained to perform work pursuant to this AGREEMENT shall be the employees or subcontractors of CONSULTANT. CONSULTANT or its subcontractors shall perform all necessary work.

XIII. ASSIGNMENT OF RIGHTS OR DUTIES

13.1 By entering into this AGREEMENT, CITY has approved the use of any subcontractors identified in CONSULTANT's Interest Statement. No further approval shall be needed for CONSULTANT to use such subcontractors as are identified in CONSULTANT's Interest Statement.

13.2 Except as otherwise required herein, CONSULTANT may not sell, assign, pledge, transfer or convey any interest in this AGREEMENT nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of CITY. Actual engineering services, those required by law to be performed by a licensed engineer, or services to be performed which, by law, require the supervision and approval of a licensed engineer, may only be subcontracted upon the written approval of the San Antonio City Council, by approval and passage of

an ordinance therefore. Any other services to be performed under this AGREEMENT may be subcontracted upon the written approval of Director.

13.3 As a condition of consent, if same is given, **CONSULTANT** shall remain liable for completion of the services outlined in this AGREEMENT in the event of default by the successor consultant, assignee, transferee or subcontractor. Any references in this AGREEMENT to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by **CITY** in accordance with this Article.

13.4 Any attempt to assign, transfer, pledge, convey or otherwise dispose of any part of, or all of its right, title, interest or duties to or under this AGREEMENT, without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should **CONSULTANT** assign, transfer, convey or otherwise dispose of any part of, or all of its right, title or interest or duties to or under this AGREEMENT, **CITY** may, at its option, terminate this AGREEMENT in accordance with Article VIII, Termination, and all rights, titles and interest of **CONSULTANT** shall thereupon cease and terminate, notwithstanding any other remedy available to **CITY** under this AGREEMENT. The violation of this provision by **CONSULTANT** shall in no event release **CONSULTANT** from any obligation under the terms of this AGREEMENT, nor shall it relieve or release **CONSULTANT** from the payment of any damages to **CITY**, which **CITY** sustains as a result of such violation.

13.5 **CONSULTANT** agrees to notify Director of any changes in ownership interest greater than thirty percent (30%), or control of its business entity not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to **CITY** under this AGREEMENT, any such change of ownership interest or control of its business entity may be grounds for termination of this AGREEMENT in accordance with Article VIII, Termination.

XIV. INDEPENDENT CONTRACTOR

14.1 **CONSULTANT** covenants and agrees that (s)he is an independent contractor and not an officer, agent, servant, or employee of **CITY**; that **CONSULTANT** shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors; that the doctrine of respondeat superior shall not apply as between **CITY** and **CONSULTANT**, its officers, agents, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between **CITY** and **CONSULTANT**.

14.2 No Third Party Beneficiaries - For purposes of this AGREEMENT, including its intended operation and effect, the Parties specifically agree and CONTRACT that: (1) this AGREEMENT only affects matters/disputes between the Parties to this AGREEMENT, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with **CITY** or **CONSULTANT** or both, or that such third parties may benefit incidentally by this AGREEMENT; and (2) the terms of this AGREEMENT are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either **CITY** or **CONSULTANT**.

XV. EQUAL EMPLOYMENT OPPORTUNITY

CONSULTANT shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Specifically, **CONSULTANT** agrees to abide by all applicable provisions of San Antonio City ordinance number 69403 on file in the City Clerk's office.

XVI. SBEDA REQUIREMENTS

16.1 **CONSULTANT** hereby acknowledges that it is the policy of the **CITY** of San Antonio to assist in increasing the competitiveness and qualifications of small ("SBE"), women ("WBE"), handicapped and minority-owned business ("MBE") enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by **CITY**. This policy and its implementation is known as the Small Business Economic Development Advocacy Program (hereinafter referred to as "SBEDA Program").

16.2 **CONSULTANT** agrees to implement the plan submitted in **CONSULTANT**'s response to **CITY**'s Request for Interest Statement under the SBEDA Program for Small, Minority and Women-owned Business Participation in this AGREEMENT, thereby meeting the percentages for participation of those groups as submitted therein. **CONSULTANT** agrees to be in full compliance with this article by meeting the percentages listed in **CONSULTANT**'s Interest Statement no later than 60 days from the date of execution of this AGREEMENT, and to remain in compliance throughout the term of this AGREEMENT. **CONSULTANT** further agrees to continue to make every effort to utilize businesses for subcontracting and supplying during the duration of this AGREEMENT, as may be approved pursuant to this AGREEMENT, that will meet the percentages submitted in **CONSULTANT**'s Interest Statement. Changes in contract value by changes in work orders, AGREEMENT amendments, or use of contract alternatives, which result in an increase in the value of the AGREEMENT by 10% or greater require the **CONSULTANT** to increase its use of business enterprises described in this section, if such is necessary to maintain the same percentages as exist in **CONSULTANT**'s Interest Statement. However, the delegation of any duties hereunder by any means must be approved by **CITY** as stated herein.

16.3 **CONSULTANT** shall maintain records showing all contracts, subcontracts, and supplier awards to SBE/MBE/WBE's. **CONSULTANT** shall submit annual reports to **CITY**'s Department of Economic Development, identifying the above activity and other efforts at increasing SBE/MBE/WBE participation in the AGREEMENT. Further, such records shall be open to inspection by **CITY** or its authorized agent at all reasonable times. Should **CITY** find that **CONSULTANT** is not in compliance with this article, **CITY** shall give notice of non-compliance to **CONSULTANT**. **CONSULTANT** shall have 30 calendar days to correct any and all deficiencies in compliance with this article. Failure to comply with this article and/or to correct any deficiencies within the time allotted shall be considered a material breach of this AGREEMENT and may subject **CONSULTANT** to any of the penalties listed in **CITY** of San Antonio Ordinance No. 77758, at **CITY**'s option. Further, such failure may be considered a default for which **CITY** may terminate this AGREEMENT in accordance with Article VIII, Termination.

16.4 **CONSULTANT** shall appoint a representative of its company to administer and coordinate its efforts to carry out these requirements.

16.5 In all events, **CONSULTANT** shall comply with the **CITY's** Small, Business Economic Development Advocacy Program, contained in San Antonio Ordinance No. 77758, and the amendments thereto. Said ordinances are incorporated herein for all purposes, as if fully set forth herein.

16.6 It is **CITY's** understanding, and this AGREEMENT is made in reliance thereon, that **CONSULTANT**, in the performance of services required hereunder, will use the subcontractor(s) listed in its response to **CITY's** Request for Interest Statement.

16.7 Any work or services subcontracted by **CONSULTANT** shall be by written contract, and unless specific waiver is granted in writing by **CITY**, shall be subject by its terms to each and every provision of this AGREEMENT. Compliance by subcontractor with the provisions of said contract shall be the responsibility of **CONSULTANT**.

16.8 **CITY** shall in no event be obligated to any third party, including any subcontractor of **CONSULTANT**, for performance or services or payment of fees.

XVII. ESTIMATES OF COST

Because **CONSULTANT** has no control over the cost of construction labor, materials or equipment or over the construction contractor's methods of determining prices, or over competitive bidding or market conditions, **CONSULTANT's** opinions of probable construction cost provided herein shall be made on the basis of **CONSULTANT's** experience and qualifications and represent **CONSULTANT's** best judgment as a design professional familiar with the construction industry. **CONSULTANT** cannot and does not guarantee that proposals, bids or the construction cost will not vary from opinions of probable cost prepared by **CONSULTANT**.

XVIII. NOTICES

Unless otherwise expressly provided elsewhere in this AGREEMENT, any election, notice or communication required or permitted to be given under this AGREEMENT shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or on receipt after mailing the same by certified mail, return receipt request with proper postage prepaid, or three (3) days after mailing the same by first class U.S. mail, postage prepaid (in accordance with the "Mailbox Rule"), or when sent by a national commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier.

If intended for CITY, to:

CITY of San Antonio
Aviation Department – Planning & Engineering

If intended for CONSULTANT, to:

Vickrey & Associates, Inc.
Mrs. Brenda Johnson

Attn: Mr. Leslie A. Heinen Jr.
9800 Airport Blvd.
San Antonio, Texas 78216

12940 Country Parkway
San Antonio, Texas 78216

XIX. INTEREST IN CITY CONTRACTS PROHIBITED

19.1 **CONSULTANT** acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with **CITY** or any **CITY** agency such as **CITY** owned utilities. An officer or employee has a "prohibited financial interest" in a contract with **CITY** or in the sale to **CITY** of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a **CITY** officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a **CITY** contract, a partner or a parent or subsidiary business entity.

19.2 **CONSULTANT** warrants and certifies, and this AGREEMENT is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of **CITY**. **CONSULTANT** further warrants and certifies that it has tendered to **CITY** a Discretionary Contracts Disclosure Statement in compliance with **CITY**'s Ethics Code.

XX. SOLICITATION

CONSULTANT warrants and represents that he has not employed or retained any company or person, other than a bona fide employee working solely for **CONSULTANT**, to solicit or secure this AGREEMENT, nor paid or agreed to pay any company or person, other than a bona fide employee working solely for **CONSULTANT**, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. This representation constitutes a substantial part of the consideration for the making of this AGREEMENT.

XXI. CONTRACT CONSTRUCTION

All parties have participated fully in the review and revision of this AGREEMENT. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this AGREEMENT.

XXII. FAMILIARITY WITH LAW AND CONTRACT TERMS

CONSULTANT represents that, prior to signing this AGREEMENT, **CONSULTANT** has become thoroughly acquainted with all matters relating to the performance of this AGREEMENT, all applicable laws, and all of the terms and conditions of this AGREEMENT.

XXIII. APPLICABLE LAW

This AGREEMENT shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

XXIV. VENUE

The obligations of the parties to this AGREEMENT shall be performable in San Antonio, Bexar County, Texas, and if legal action, such as civil litigation, is necessary in connection therewith, exclusive venue shall lie in Bexar County, Texas.

XXV. SEVERABILITY

In the event any one or more paragraphs or portions of this AGREEMENT are held invalid or unenforceable, such shall not affect, impair or invalidate the remaining portions of this AGREEMENT, but such shall be confined to the specific section, sentences, clauses or portions of this AGREEMENT held invalid or unenforceable.

XVI. FORCE MAJEURE

In the event that performance by either party of any of its' obligations or undertakings hereunder shall be interrupted or delayed by any occurrence and not occasioned by the conduct of either party hereto, whether such occurrence be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not party or privy hereto, then such party shall be excused from performance for a period of time as is reasonably necessary after such occurrence to remedy the effects thereof, and each party shall bear the cost of any expense it may incur due to the occurrence.

XVII. SUCCESSORS

This AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this AGREEMENT, their assigns.

XXVIII. NON-WAIVER OF PERFORMANCE

28.1 A waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this AGREEMENT shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this AGREEMENT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this AGREEMENT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of CITY, such changes must be approved by the San Antonio City Council.

28.2 No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXIX. PARAGRAPH HEADINGS

The headings of this AGREEMENT are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXX. LEGAL AUTHORITY

The signer of this AGREEMENT for CITY and CONSULTANT each represents, warrants, assures and guarantees that he has full legal authority to execute this AGREEMENT on behalf of CITY and CONSULTANT respectively, and to bind CITY and CONSULTANT to all of the terms, conditions, provisions and obligations herein contained.

XXXI. INCORPORATION OF ATTACHMENTS

CONSULTANT understands and agrees that all attachments, including appendices thereto, referred to in this AGREEMENT are intended to be and hereby are incorporated herein and specifically made a part of this AGREEMENT for all purposes. Said attachments are as follows:

ATTACHMENT "A" (Scope of Services)

ATTACHMENT "B" – (Production Schedule)

ATTACHMENT "C" – (CONSULTANT's Fee Proposal and SBEDA Participation Statement from CONSULTANT's Interest Statement)

In the event of a conflict or inconsistency between any attachment and the terms of this AGREEMENT, the terms of this AGREEMENT shall govern and prevail. In the event of a conflict or inconsistency between Attachment "A" and Attachments "B" and/or Attachment "C", the terms of Attachment "A" shall control over the terms of Attachment "B" and Attachment "C". In the event of a conflict or inconsistency between Attachment "B" and Attachment "C", the terms of Attachment "B" shall control over the terms of Attachment "C".

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XXXII. ENTIRE AGREEMENT

32.1 This AGREEMENT, together with its authorizing ordinance and Attachments, as listed in Article XXXI, Incorporation of Attachments, embodies the complete AGREEMENT of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written consent of the parties and approved by ordinance passed by the San Antonio City Council.

32.2 It is understood and agreed by the Parties hereto that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this AGREEMENT and that any such changes shall be automatically incorporated into this AGREEMENT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

EXECUTED ON THIS, THE _____ DAY OF _____, _____.

CITY:

CONSULTANT:

CITY OF SAN ANTONIO

CITY MANAGER

APPROVED AS TO FORM:

CITY ATTORNEY

ATTACHMENT "A"
Sky Place Boulevard Re-Alignment and Drainage at San Antonio International Airport
SCOPE OF SERVICES

Scope of this project includes three distinct and separate projects, namely:

SKY PLACE DRAINAGE

This work includes the preparation of design documents and construction administration for the installation of an underground drainage system, which is to start at the existing box culvert under Sky Place Boulevard (approximately 1700 feet east of the Sky Place/Nakoma/Jones Maltsberger intersection). The purpose of this project is to enclose the existing open ditch along Sky Place with a multiple box culvert system, which is to include the necessary connections (and re-alignment if necessary) of existing outfalls. The project also includes designing access manholes to the box culverts, designing drainage systems to receive localized drainage, headwalls, backfill, grading and recommending utility adjustments which conflict with the proposed multiple box culverts. The project will be designed as a single project consisting of a base design portion with an additive alternate portion. The base construction has a construction budget of \$2,000,000 and consists of approximately 1200 feet of the system. The additive alternate to the base construction has a construction budget of \$1,100,000 and consists of approximately 700- feet of the system.

SKY PLACE BLVD RE-ALIGNMENT

This work includes the preparation of design documents and construction administration for the extension of Sky Place Boulevard from the intersection at Nakoma/Jones Maltsberger westward approximately 1,100 feet, terminating in a 90⁰ intersection at Gordon Road. The beginning of construction at the existing Sky Place Blvd. will be determined by the traffic design criteria, but will minimize the amount of Sky Place Blvd. to be reconstructed. The scope includes street design, drainage system adjustments and extension, pavement marking, street signage, traffic signalization, street light design and layout, metal beam guard rails, airport security fence relocations, detours, construction sequences and all other associated design to create a set of construction documents. The roadway layout and horizontal design shall be designed to accommodate WB-67 (Interstate Semitrailer) truck movement. The width of pavement and horizontal curve for Sky Place Blvd. will be determined by using a 35 mph speed criteria in accordance with ASSHTO. Traffic signalization, to be coordinated through COSA Traffic Engineering, shall be provided at the intersection of Gordon Road, Nakoma and Sky Place Blvd. Widening of Nakoma shall be designed to include adding left turn and right turn lanes from east bound of Nakoma onto Gordon and Sky Place Boulevard respectively and a left turn lane from west bound of Nakoma onto Sky Place Blvd. The existing drainage systems coming from Nakoma shall be extended across Sky Place Blvd. to the new drainage system provided by the Sky Place Blvd. drainage project. All surface runoff in the area of the proposed Sky Place Blvd. will be directed into the Sky Place Drainage System, which may include increasing the size of the pipes and/or add additional surface inlets. The existing Sky Place/Nakoma/Jones Maltsberger intersection shall be evaluated for modification or complete removal. The accepted recommendation shall be incorporated into the design documents. The limits, scopes of services and associated Consultant fees for the design of utility adjustments or relocations for the two intersections, Nakoma/Sky Place/Gordon and Jones Maltsberger/Sky Place Blvd., together with the tie-in location of the new Sky Place Blvd. and the current Sky Place Blvd., have yet to be determined. As such, the limits, scope of services and associated Consultant fee will be established as additional services to this agreement which shall be amended at a future date.

TENANT INFRASTRUCTURE

This work includes the preparation of design documents and construction administration for the infrastructure improvements in support of tenant expansion along Sky Place Boulevard. The limits and scope of services and associated fee have yet to be determined. As such, the scope and associated fee will be established as additional services to this agreement, which shall be amended at a future date.

Preliminary Phase SKY PLACE DRAINAGE:

The Consultant Shall:

1. Serve as the owner's representative during the Preliminary Phase of the Project and furnish consultation and advise to the Owner during the performance of this service.
2. Perform field surveys (but not right-of-way acquisition surveys) and where necessary, site topography, soil boring locations, geo probe locations to collect the information needed in the design of the project. Establish project control points based on Airport monumentation. Site topography will cover the following areas:
 - a) The existing 6-9'x9' multiple box culverts at Sky Place Blvd and sufficient areas on four sides of the junction point (upstream, downstream, left and right) for Consultant to perform the drainage design.
 - b) The existing earth channel along south side of Sky Place Blvd. from Jones Maltsberger to Sky Place Blvd. The limits of the cross sections will be the airport security fence on the north boundary and 230' south of the said fence on the south boundary. Use 350' to the last 250' of the upstream end for the south boundary. The limits shown here are only for reference. It will be the Consultant's responsibility to make sure the areas covered are adequate for the project needed.
 - c) Other areas adjacent to the project determined by the Consultant to be needed to complete the drainage design.
 - d) Consultant will use the 1997 Salado Creek Drainage Study prepared by Vickrey & Associates for the City of San Antonio and the latest approved models as a basis of the hydrologic and hydraulic evaluations of the downstream drainageways. No additional surveying of the downstream Salado Creek is included.
3. Coordinate with CPS, Southwestern Bell Telephone, Time Warner Cables and SAWS on utility locations and conflict resolutions.
4. Consultant to research and field locate the existing utility systems, aboveground and underground, within the project limits. The tasks involve:
 - a) Collecting the current records directly from the utility companies of the locations of their facilities and requesting utility elevations of the systems, if possible.
 - b) To ask utility companies to flag or to paint their systems on the field.
 - c) To perform field surveys to collect the utility data, locations and elevations (if exposed or provided by the utilities), for the design.
 - d) **Provide Quality Service Level D** – Collect existing utility record information (as-built) from utility purveyors, municipalities, counties and other agency suppliers within the area of investigation. These utilities will include: primary electric, telephone, cable TV, Fiber Optic, gas, petroleum, water, sanitary sewer and storm drain systems.
 - e) **Provide Quality Service Level C** – Obtain accurate horizontal position of visible utility surface features and those utilities field located and flagged by their respective utilities for all of the utility systems described within Level D service.

Detailed subsurface measurements and surveys for exploration for utilities (potholing), if required, will be an additional service and paid by allowance. Potholing is defined as:

Quality Service Level A – Locating (Test Hole) Services: Locating services is to locate the accurate horizontal and vertical position of subsurface utilities by excavating a test hole using vacuum excavation techniques and equipment that is non-destructive to utilities.

5. Establish preliminary box culvert centerline alignment at 50' intervals for geo probe investigation.
6. Provide soil borings to establish the density needed for the embankment and/or fill, the water table elevations, the soil profiles and classifications for the Project, the basis for the Contractor's trench protection design and the bearing capacity to be used for designing the box culvert, fill and street pavement or aircraft loading. Perform four (4) geotechnical soil borings along the length of the box culvert. Soil boring will extend approximately five (5) feet below the invert of the existing box culvert. Soil boring locations will be identified by a guard stake and lathe with unique identifiable markings.
7. Provide Geo-Probe along the entire length of project at 25' intervals, using an assumed centerline alignment, with probes alternating 50' north & south of centerline, staying, however, within the Airport property boundary. Probe to a depth of a minimum of 5 feet below the existing box culvert invert. It is estimated that 64 probes will be required for the 1,600 linear feet of box culvert. The purpose of this Geo Probe investigation is to determine the presence of abandoned landfill(s). Should any areas be encountered, the Consultant shall, in concert with the Aviation Department, develop a mitigation plan, which shall be considered outside the scope of this agreement and subject to further scope and fee negotiations. Geo probe locations will be identified by a guard stake and lathe with unique and identifiable markings.
8. All coordinations and escorts for Geo-Probe, geotechnical soil borings and utility companies will be handled by the Consultant. The Aviation Department will handle all coordination work with FAA. The person performing the escort needs to receive a red badge and an airfield driver license. The badge application involves a standard fee for a badge and for a criminal background check. The training does not have a fee associated with it. The Consultant will be responsible for payment of the standard fees.
9. Review available record drawings for project area including airport civil, airport electrical, airport drainage master plan, the airport master plans, the Public Works Department as-built drawings and available utility company provided maps. Evaluate the Project Layout for suitability to project description and make a recommendation for the preliminary layout.
10. Coordinate with Claunch and Miller, airport consultants for the Perimeter Road project.
11. Any delays resulting from the review or coordination with the Public Works Department will not be charged against Consultant's completion schedule.
12. Design one (1) drainage solution. Use Public Works' latest flood models to establish hydrological and hydraulic data required for the project. The suggested solution shall meet the following criteria:
 - a) Inlets: Use 25-yr storm to determine the sizes and locations of the inlets.
 - b) Storm Sewer Systems: Use 5-yr storm to design the underground systems and the new systems shall be designed such that the existing drainage systems at Nakoma continue to meet the City of San Antonio 25-yr storm design criteria. This design will be submitted by the City to the Public Works Department Storm Water Engineering for review and approval. Furthermore, the 100-yr storm event water surface elevation of the new underground storm sewer system shall be checked against the proposed gutter line elevation or the proposed natural ground elevation. Any changes to the design criteria required by Public Works department shall be considered a change in scope and shall be addressed as an additional service with an associated fee.
 - c) No additional storm water runoff can be added to the existing Sky Place Blvd., regardless of the storm events.

- d) For the design storm, the exit velocity from the proposed storm sewer system will not increase the exit velocity through the existing box culvert above the existing conditions into the Salado Creek.
 - e) If the check of the 100-year ultimate storm event water surface elevation is above the proposed ground elevations, then additional designs to reduce the 100-year elevation will be an additional service.
13. The Consultant needs to initiate design coordination for the proposed storm sewer system with the Aviation Department before completing the Preliminary Phase. Prepare the Preliminary Phase Plans to include: a single preliminary layout and grading plan together with drainage and storm sewer plans and profiles.
 14. Prepare an engineer's opinion of probable construction cost estimates for the recommended design solution.
 15. Prepare a Preliminary Report to include the following:
 Geotechnical report and findings, including Geo-Probe report. It includes a location map showing locations, depths and distances of all Geo-Probe sites and all soil testing sites.
 - a) Topographic survey and benchmarks. Address whether or not the right-of-way acquisition is required. Include a table showing the comparison of the benchmark data used by the project against the benchmarks used for 1997 Vickrey's Salado Creek Watershed Study and Drainage Master Plan.
 - b) Drainage area maps and Hydrologic Calculations. (5-yr, 25-yr and 100-yr)
 - c) Drainage design and hydraulic analysis and computations. (5 yr, 25 yr and 100 yr) Plot hydraulic grade lines and energy lines or water surface lines on the profiles of the proposed drainage sewer systems.
 - d) Construction cost estimates.
 - e) Final summary and recommendations.
 - f) Construction Sequences, Phasing and scheduling recommendations.
 - g) All identified existing utility locations.
 - h) All required utility adjustment recommendations including suggested utility adjustment alignment.
 16. Furnish the City with twelve (12) copies of the Preliminary Phase plans, Engineer's Opinion of Probable Construction Cost and the Preliminary Report and with five (5) copies of the geotechnical report and findings, including the Geo Probe Report.
 17. Attend the Preliminary Phase design review meeting to review and discuss comments and recommendations of airport staff, FAA and other agencies as may be involved. The attendees are to include subconsultants. Upon review of said plan and supporting documents and after approval of same, the City will furnish to the Consultant, in writing, approval of such plan and authority to proceed with the Design Phase of the Project.

Preliminary Phase: SKY PLACE BLVD RE-ALIGNMENT
 The Consultant Shall:

1. Serve as the owner's representative during the Preliminary Phase of the Project and furnish consultation and advise to the Owner during the performance of this service.

2. Perform field surveys (but not right-of-way acquisition surveys) and where necessary, site topography, soil boring locations, required to collect the information needed in the design of the project. Establish project control points based on Airport monumentation.
3. Perform right-of-way boundary survey to determine existing right-of-way limits adjacent to the project.
4. Site topographic surveying will extend along the proposed Sky Place Boulevard route from 100 feet east of the proposed tie into the existing Sky Place Boulevard to 100 feet west of the Gordon and Nakoma intersection and 100 feet left and right of the proposed route. Surveying will also extend along Nakoma from 400 feet west of Gordon to 200 feet north of Sky Place along Jones Maltzberger Road from right-of-way to right-of-way. Surveying will include 100 feet along Gordon.
5. Coordinate with SAWS, CPS, Southwestern Bell Telephone and Time Warner Cables on utility locations and conflict resolutions.
6. Consultant needs to research and field locate the existing utility systems, aboveground and underground, within the project limits as follows:
 - a) Beginning Two hundred feet (200') west of the Nakoma & Gordon Road intersection within the apparent ROW (north and south) of Nakoma,
 - b) The entire intersection of Nakoma and Gordon Road,
 - c) Along the southern half of Nakoma (from the pavement centerline to the southern apparent ROW of Nakoma) from the Gordon Road intersection to the Jones Maltzberger intersection,
 - d) The entire intersection of Nakoma and Jones Maltzberger, and
 - e) Terminating four hundred feet (400') east of the Jones Maltzberger intersection following Sky Place Blvd. from apparent ROW to apparent ROW of Sky Place Blvd.
 - f) The project area includes the location of the proposed Sky Place Blvd. located inside the Airport Property.

The tasks involve:

- a) Collecting the current records directly from the Utility Companies of the locations of their facilities and requesting elevations of the systems, if possible.
- b) To ask utility companies to flag or to paint their systems on the field.
- c) To perform field surveys to collect the utility data, locations and elevations (if exposed or provided by the utilities), for the design.
- d) Provide Quality Service Level D – Collect existing utility record information (as-built) from utility purveyors, municipalities, counties and other agency suppliers within the area of investigation. These utilities will include: primary electric, telephone, cable TV, Fiber Optic, gas, petroleum, water, sanitary sewer and storm drain systems.
- e) Provide Quality Service Level C – Field locate and obtain accurate horizontal position of visible utility surface features for all of the utility systems described within Level D service.
- f) Provide Quality Service Level B (Designating Services): Quality levels D and C are inclusive with Level B services. Designate is to indicate, by marking, the presence and approximate horizontal location of subsurface utilities using geophysical prospecting techniques, including, without limitations, electromagnetic, sonic and acoustical techniques. Consultant will not be responsible for any omission of utility information that is not obtainable via electromagnetic, sonic and acoustical techniques.

Detailed subsurface measurements and surveys for exploration for utilities (potholing), if required, will be paid under allowance. Potholing is defined as:

Quality Service Level A – Locating (Test Hole) Services: Locating services is to locate the accurate horizontal and vertical position of subsurface utilities by excavating a test hole using vacuum excavation techniques and equipment that is non-destructive to utilities.

7. All coordinations and escorts for geotechnical soil borings and utility companies will be handled by the Consultant. The Aviation Department will only handle all coordination work with FAA. The person performing the escort needs to receive a red badge and an airfield driver license. The badge application involves a standard fee for a badge and for a criminal background check. The training does not have a fee associated with it. The Consultant will be responsible for payment of the standard fee.
8. Provide soil borings and related tests and analysis required for the design of the Project to include:
 - a) Conduct soil boring at three (3) locations along the proposed street alignment to a nominal depth of 8 feet. Log and field classify soils and obtain samples for laboratory testing.
 - b) Perform laboratory testing for trench protections and street pavement designs as follows:
 - (a) Percent of Soil finer than No. 200 Sieve (ASTM D 1140)
 - (b) Liquid Limit, Plastic Limit and Plasticity Index of Soils (ASTM D 4318)
 - (c) Moisture-Density Relations of Soils (ASTM D 698 or D1557)
 - (d) Bearing Ratio of Laboratory-Compacted Soils (ASTM D 1883)
 - (e) Water Measurement after 24 hours.
 - (f) Classification of Soils for Engineering Purposes (ASTM D 2487)
 - (g) Classification of Soils for Trench Safety, OSHA Soil Types.
9. Review and evaluate Project layout to include available record drawings for project area including civil, electrical and drainage master plan, Public Works Department as-built drawings and appropriate utility companies.
10. Perform 24-hour traffic volume and classification counts by hour on Sky Place Boulevard.
11. Perform 24-hour traffic volume counts on Nakoma and Gordon.
12. Perform a traffic signal warrant analysis for the proposed intersection.
13. If the signal warrants are not satisfied by the project traffic volumes, then an operation analysis or a traffic generation analysis of the proposed uses would need to be performed in the unsignalized operation of the intersection to determine vehicle delays and whether the delay warrant is satisfied. This analysis shall be considered outside the scope of this agreement and subject to further scope and fee negotiations.
14. Prepare a schematic layout of proposed roadway configuration for review and comment by the aviation department.
15. Attend coordination meeting with the City staff, specifically limited to:
 - a) Attend a meeting with the City Traffic Engineer to discuss the schematic layout and receive comments for incorporation into preliminary layout.
 - b) Attend a meeting with the City Drainage Engineer to discuss the drainage design requirements.
 - c) Attend a meeting with the City Traffic Engineer to discuss the construction sequences and detour issues for both intersections: Gordon/Nakoma/Sky Place and Jones Maltsberger/ Sky Place Blvd.

Any changes to the design criteria as a result of these meetings will be considered a change in scope and will be addressed as an additional service, along with its associated fee.

16. Coordinate with Claunch and Miller, airport consultants for the Perimeter Road project.
17. Design one (1) drainage solution. The suggested solution shall meet the following criteria:
 - a) Inlets: Use 25-yr storm to determine the sizes and locations of the inlets.
 - b) Storm Systems: Use 5-yr storm to design the underground systems and the new systems shall be designed such that the existing drainage systems at Nakoma continue to meet the City of San Antonio 25-yr storm design criteria. This design will be submitted by the City to the Public Works Department Storm Water Engineering for review and approval. Furthermore, the 100-yr storm event water surface elevation of the new underground storm sewer system shall not be higher than the proposed gutter line elevation or the proposed natural ground elevation. Any changes to the design criteria required by Public Works department shall be considered a change in scope and shall be addressed as an additional service with an associated fee.
 - c) No additional storm water runoff can be added to the existing Sky Place Blvd., to include the 5-year, 25-year and 100-year storm events.
18. Provide a total of two (2) pavement section recommendations, one for Nakoma and one for Sky Place Boulevard, based on findings and recommendations of the Soil Report.
19. At the airport side, there will be a L-Shape intersection from the new entrance coming from Nakoma to the proposed Sky Place Blvd. Before submitting the preliminary phase, the consultant needs to provide three alternates of the street alignments for the proposed Sky Place Blvd. and the Nakoma modification to Aviation Department for selection. Use the selected street alignment to complete one (1) preliminary layout and grading plan together with street, drainage and storm sewer plans and profiles.
20. Place sidewalk back on the south side of Nakoma within the project limit and also backfill and grade the dead area between Nakoma and the new proposed Sky Place Blvd.
21. Place metal beam guard rails at the L-shape intersection and all other areas determined by AASHTO.
22. Complete one preliminary layout of the streetlights and the proposed airport security fences. The street lights will be placed along the south parkway. The distance from the new airport security fences to any structures, including streetlights and traffic signal poles is 10 feet.
23. Complete preliminary signage and signalization layout, including advanced warning signal, if required.
24. Prepare an engineer's opinion of probable construction cost for the recommended design solution. Include costs for any temporary construction detours.
25. Prepare a Preliminary Report to include the following:
 - a) Geotechnical report and findings. It includes a location map showing the locations, depths and distances of all soil testings.
 - b) Topographic survey and benchmarks.
 - c) All existing right-of-way or easement boundaries. Address whether or not right-of-way acquisition is needed.
 - d) Pavement design analysis and computations.

- e) Hydrological and hydraulic design analysis, computations and recommendations.
 - f) Construction cost estimates.
 - g) Final summary and recommendations.
 - h) Construction sequences, Phasing and scheduling recommendations.
 - i) Address construction sequencing and detours at the intersection of Nakoma, Gordon and Sky Place Blvd and the intersection of Jones Maltsberger and Sky Place Blvd.
 - j) Show all identified existing utility locations and elevations, if possible.
 - k) All required utility adjustment recommendations, inside and outside airport fences, including suggested utility alignments.
 - l) Address any structures or fences to be relocated.
26. Furnish the City with twelve (12) copies of the Preliminary Phase plans and supporting documents including any and all of those mentioned immediately above and two (2) copies of the Geotechnical Report and Pavement Design Report.
27. Attend the preliminary design review meeting to review and discuss comments and recommendations of airport staff, FAA and other agencies as may be involved. The attendees are to include subconsultants. Upon review of said plan and supporting documents and after approval of same, the City will furnish to the Consultant, in writing, approval of such plan and authority to proceed with the Design Phase of the Project.

Design Phase (through construction contract award): SKY PLACE DRAINAGE
 The Consultant Shall:

- 1. Incorporate preliminary design comments and respond as necessary to airport requests for additional information.
- 2. Meet with Aviation department personnel as deemed necessary.
- 3. Have geotechnical engineer attend one combined Sky Place Boulevard RE-ALIGNMENT and drainage improvement meeting and prepare a single (1) supplement to the original geotechnical report.
- 4. Furnish when necessary data required by the Aviation Department for the development for any applications or supporting documents for State or Federal Government permits, grants, or planning advances, provided that such data shall not extend beyond that actually developed in the performance of other provisions of this agreement.
- 5. Perform any additional field surveys, (but not right-of-way acquisition surveys) and site topography required to collect information needed in the design of the Project.
- 6. Provide final contract drawings, specifications, instruction to bidders, general conditions, proposal, special conditions and other documents necessary for the City to advertise for bids.
- 7. Detailed specification shall be developed using the City of San Antonio Standard Specifications for Public Works Construction, and appropriate sections of AC 150/5370-10A, "Standards for Specifying Construction of Airports" (latest version). Develop Special specifications as required for all items not specifically addressed in the Advisory Circular (AC) including modifications as required to meet the specific need of the Project.

8. Design all improvements in accordance with FAA standards and guidelines and in accordance with the Airport Certification Manual. All storm sewer pipes, sanitary sewer pipes, box culverts, manholes and surface inlets shall have the structure capacity to carry combination loads of heavy aircraft loading and fill. Use AC 150/5320-6D Appendix 3, Design of Structures for Heavy Aircraft to design box culverts, manholes and surface inlets. Use AC 150/5320-5 Airport Drainage for the selections of pipes and bedding.
9. Coordinate the design of the project with existing grades along adjacent areas. No additional runoffs can be added on the existing Sky Place Blvd.
10. Prepare Drainage Construction plans and profiles, cut or fill cross sections, bedding and backfill details for pipes and box culverts, head wall structure details, storm sewer structures details, including box culverts, equalizers, access manholes and inlets, along with any modifications to or extensions of the existing outfall systems and ripraps. Separate structure details are needed for the box culvert in the curve area and transition areas. The access manholes will be placed at the end of the system, every junction to the existing major lateral system and the location of the size change of the box culvert systems.
11. The box culvert cross sections shall be included for every fifty feet station, P.C., P.T., P.I. and the locations of the size change (plus any intermediate stations if field conditions so dictate) at a scale of 1"=10'-0" horizontal and 1"=5'-0" vertically.
12. Prior to the actual printing and delivery of the bid package, twelve (12) sets of plans and five sets of the project specifications, three sets each of bid proposals and construction cost estimates shall be submitted to the Engineering Division of the Aviation Department for approval or correction as may be deemed necessary. If the plans, specifications, bid proposal or/and cost estimates as submitted by the Consultant for final review are deemed by the Department to be incomplete and another review is justified, the Consultant shall make the corrections as specified and resubmit twelve (12) sets of revised sheets only for this review. The Consultant shall bear the expense of the additional twelve (12) sets of reviewed sheets required for this review.
13. Attend the Design Review Meeting to review and discuss comments relevant to the design review. The attendees are to include all design (except traffic) subconsultants.
14. Revise Contract Documents pursuant to the comments and discussions relevant to the Final Design Review Meeting.
15. Subsequent to the Final Design Review Meeting and upon written authorization from the City, the Consultant shall proceed with the bidding of the Project.
16. Furnish as part of the Consultant's basic fee for twenty (20) sets of bidding documents to include plans, specifications, proposals, bid enveloped and related documents, including addenda, if needed at a later time.
17. Distribute Contract Documents and addenda to Aviation Department, Public Works Department Maps & Records, contractors and subcontractors as required; upon the direction of the City, receive and record plan fees; maintain a record of issuance for all sets of Contract Documents and addendum distributed; furnish the City, a notarized statement that the Consultant has provided and all bidders have received plans, proposals, bid envelopes and specifications and any addenda thereto, prior to the opening of the bids. All returned sets of the bidding documents and addenda shall be available to the successful bidder and subcontractors, not to exceed the number of bidding documents referred to in Paragraph 13, above.

18. Attend the Pre-bid conference as scheduled by the City to provide clarification and interpretation to bidders. Provide the minutes of the pre-bid conference to be used in the addendum . The attendees are to include all design (except traffic, geotechnical engineer and SUE) subconsultants.
19. Prepare all addenda.
20. Attend the formal opening of the bids by the City Clerk, and advise the City of any discrepancies, errors or omissions, which may affect the contract award of final construction cost. The Consultant shall tabulate and furnish to the City an original and three (3) copies of the bid tabulation with written recommendation regarding the award of the contract.

Design Phase (through construction contract award): SKY PLACE BOULEVARD RE-ALIGNMENT
The Consultant Shall:

- 1) Incorporate preliminary design comments and respond as necessary to request for additional information.
- 2) Meet with Aviation department personnel as deemed necessary.
- 3) Have geotechnical engineer attend one combined Sky Place Boulevard RE-ALIGNMENT and drainage improvement meeting and prepare a single (1) supplement to the original geotechnical report.
- 4) Furnish when necessary data required by the Aviation Department for the development for any applications or supporting documents for State or Federal Government permits, grants, or planning advances, provided that such data shall not extend beyond that actually developed in the performance of other provisions of this agreement.
- 5) Perform any additional field surveys, (but not right-of-way acquisition surveys) and site topography required to collect information needed in the design of the Project.
- 6) Prepare a Traffic Signage plan and details, including the street name signs and Pavement Marking Plan. Provide metal beam guard rail details and airport security fence details.
- 7) Provide final contract drawings, specifications, instruction to bidders, general conditions, proposal, special conditions and other documents necessary for the City to advertise for bids.
- 8) Prepare a traffic signalization design and layout for the proposed intersection at Gordon, Nakoma, and Sky Place Boulevard, incorporating the use of a Video Detection System. Provide traffic signal pole structure details.
- 9) Prepare a Sequence of Work Plan and a detour plan for the project.
- 10) Prepare a Traffic Control Plan for the proposed Nakoma, Gordon, Sky Place Boulevard Intersection.
- 11) Prepare a Traffic Control Plan for the existing Nakoma, Jones Maltsberger, Sky Place Boulevard intersection.
- 12) Design a right turn only from Sky Place onto Jones Maltsberger at the existing intersection of Sky Place and Jones Maltsberger.

- 13) Prepare Street Construction Plans for the widening of Nakoma to accommodate left turn lane bays from Nakoma onto Gordon and Sky Place Boulevard and for a right turn lane from Nakoma onto Sky Place Boulevard.
- 14) Prepare Street Construction Plans, Profiles and Cross Sections of the new Sky Place Blvd. Prepare all work required for the transition area from the new alignment to the existing alignment of Sky Place Blvd. It includes all related utility adjustment work.
- 15) The scales for the plans and profiles of the street and storm sewer systems shall be 1"=20'-0" horizontally and 1"= 5'-0" vertically. Street and drainage cross sections, including inlet cross sections shall be at a scale of 1"=10'-0" horizontally and 1"= 5'-0" vertically. Sheet cross sections shall be included for every fifty feet station, P.C., P.T., P.I. (plus any intermediate stations if field conditions so dictate) .
- 16) Prepare drainage construction plans and profiles, including all structure details and cross sections for modifying the existing drainage systems and/or new systems.
- 17) Prepare street light construction plans and details. Provide a location map, geodetic data and top of pole elevation, for all proposed traffic signal poles and street light poles. Use North American Datum of 1983 Texas South Central Zone for Latitude and longitude and Airport provided benchmarks for elevations.
- 18) Detailed specifications shall be developed using the City of San Antonio Standard Specifications for Public Works Construction, and appropriate sections of AC 150/5370-10A, "Standards for Specifying Construction of Airports" (latest version). Develop Special specifications as required for all items not specifically addressed in the Advisory Circular (AC) including modifications as required to meet the specific need of the Project.
- 19) Design all improvements in accordance with the more stringent of FAA standards and guidelines, the Airport Certification Manual and the City Public Works standards and details.
- 20) Design the project to compliment existing grades along the adjacent areas.
- 21) Incorporate the City provided SWPPP and details into the plan set, including the City provided barricade detail sheets.
- 22) Prior to the actual printing and delivery of the bid package, twelve (12) sets of plans, five copies of project specifications, three copies each of the proposal and cost estimates shall be submitted to the Engineering Division of the Aviation Department for approval or correction as may be deemed necessary. If the plans as submitted by the Consultant for final review are deemed by the Department to be incomplete and another review is justified, the Consultant shall make the corrections as specified and resubmit twelve (12) sets of revised sheets only for this review. The additional twelve (12) sets of reviewed sheets required for this review shall be included.
- 23) Attend the Design Review Meeting to review and discuss comments relevant to the design review. The attendees are to include all design subconsultants.
- 24) Revise Contract Documents pursuant to the comments and discussions relevant to the Final Design Review Meeting.

- 25) Subsequent to the Final Design Review Meeting and upon written authorization from the City, the Consultant shall proceed with the bidding of the Project.
- 26) Furnish as part of the Consultant's basic fee for twenty (20) sets of bidding documents to include plans, specifications, proposals, bid enveloped, addenda and related documents.
- 27) Distribute Contract Documents and addenda to Aviation Department, Public Works Department Maps & Records, contractors and subcontractors as required; upon the direction of the City, receive and record plan fees; prepare, issue and deliver all addenda/s required to perfect the bid documents; maintain a record of issuance for all sets of Contract Documents and addendum distributed; furnish the City, a notarized statement that the Consultant has provided and all bidders have received plans and specifications and any addenda thereto, prior to the opening of the bids. All returned sets of the bidding documents shall be available to the successful bidder and subcontractors, not to exceed the number of bidding documents furnished by Consultant.
- 28) Attend the Pre-bid conference as scheduled by the City to provide clarification and interpretation to bidders. Prepare the minutes of the pre-bid conference to be used in the addendum. The attendees are to include all design subconsultants.
- 29) Prepare all addenda.
- 30) Attend the formal opening of the bids by the City Clerk, and advise the City of any discrepancies, errors or omissions, which may affect the contract award of final construction cost. The Consultant shall tabulate and furnish to the City an original and three (3) copies of the bid tabulation with written recommendation regarding the award of the contract.

Construction Phase (Combined SKY PLACE DRAINAGE and SKY PLACE BOULEVARD RE-ALIGNMENT)

1. Attend the Pre-Construction conference with the representatives of the interested City Departments and the Contractor to clarify the Contract Documents and Project requirements. The Consultant shall prepare a summary record of the Pre-construction conference as scheduled by the City. The attendees are to include all design subconsultants.
2. Perform the necessary services in connection with the construction layout on the ground for the Project. The services shall be limited to two (2) rounds of construction staking services for each project and all required cut sheets, and the establishment of three (3) horizontal and vertical control points for each project to construct the project. However, during the Pre-Construction Conference, if the Construction Contractor, the City, and the Consultant agree that certain points are not needed during construction, then those points will not be set. Staking and preparation of cut sheets shall be performed as required by the City and shall be accomplished within seven (7) calendar days of notification. Four copies of cut sheets are required. Additional staking shall be deemed to be an additional service and a separate fee will be negotiated at the time of the request.
3. Attend bi-weekly construction meetings (once every 2 weeks) to discuss job progress, revisions, plan clarification and coordination. The Consultant shall include traffic, street, drainage and construction subconsultants as attendees in these meetings. One representative from the Consultant shall be a P.E. practicing in Texas.
4. Perform periodic visits (twice a month) to the site to observe as an experienced and qualified design professional the progress and quality of the executed work, and to determine in general if the work is

proceeding in accordance with the plans and specifications. During such visits and on the basis of on-site observations, the Consultant shall consult and advise the City during construction, and submit monthly reports to the City relating to such visits. The Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work; the Consultant shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor or the safety precautions and programs incident to the work of the Contractor. The Consultant's efforts will be directed towards providing Consultant's best judgment to the City that the completed Project will conform to the plans and specifications. Consultant shall report to the City any deficiencies in the work actually detected by the Consultant. During such visits and on the basis of on-site observations, the Consultant shall consult and advise the City during construction.

5. After Contractor's approval, the Consultant shall review and take appropriate action (approve with modifications, reject, etc.) upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to minimize delay. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. The approval of a specific item shall not indicate approval of an assembly of which the item is a component.
6. Receive and review certificates of inspections, testing (to include Field, Laboratory, Shop and Mill testing of materials), and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents to determine generally that the results certified substantially comply with the Contract Documents. The Consultant shall also recommend to the City special inspection or testing when deemed necessary to assure that materials, products assemblages and equipment conform to the design concept and the Contract Document. Evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s).
7. Review monthly estimates and recommend approval or other appropriate action on estimates.
8. Develop, at the request of the City, any changes, alterations or modifications to the Project, which appear to be advisable and feasible, and in the best interest of the City. Routine changes made during construction (Change Orders/Field Alterations) that are within the original scope of the Project and are also caused by Consultant's omissions, will be made at no additional cost to the City. Any such alterations shall appear on or be attached to the City's form "Field Alteration Request".
9. Perform in company with the City representatives(s) a "conditional approval" and a "Final" inspection of the Project to observe any apparent defects in the completed construction with regard to conformance with design concept and intent of the Contract Documents. Assist the City in consultation and discussions with Contractor(s) concerning such deficiencies, and make recommendations as a replacement or correction of the defective work.
10. After completion of the work, and before final payment to the Contractor, the City's shall receive from the Contractor a set of "Record Drawings". The Consultant, after receiving the information, shall transfer the information to a set of "Mylar" material or an approved equal, plus CAAD files (diskettes) compatible to the Auto Cadd Release Version 13 or 14 showing all items of work actually installed in the Project (hereinafter called "Plan of Record") for the City's permanent file. Submit a set of the Mylar record drawings and CADD files to the Aviation Department within thirty (30) days after receiving the record drawings from the contractor. The Consultant shall stamp "Record Drawings" and

date on every sheet. The Consultant shall not be held liable for the information supplied by the Contractor and/or City representative.

11. Consultant will prepare a Final Recapitulation.
12. The City will require the Contractor to submit to the Consultant who shall review and deliver to the City manufacturer's warranties or bonds on materials and equipment incorporated in the Project for which such warranties or bonds were required by the specifications.
13. Upon written request by the City, furnish the services of a resident representative of the Consultant, who may be resident engineer, resident architect, or inspector, at a salary agreeable to the City and FAA for continuous on-site inspection of the construction and performance of the construction lay out surveys. Such resident representative shall be responsible for the collection and submission of samples to a laboratory as designated by the City, and shall provide for the computation and documentation of all final construction quantities. Such services, if authorized will be negotiated in accordance with Appendix A.

It is understood and agreed that the City will through the Aviation Department (Combined SKY PLACE DRAINAGE and SKY PLACE BOULEVARD RE-ALIGNMENT):

- a) Coordinate the project through Aviation Department Divisions, the Federal Aviation Administration, and tenants of the airport.
- b) Provide a specimen copy of the latest version of the standard City of San Antonio boilerplate for use in the Contract Specification.
- c) Assist in night surveying operations if required.
- d) Provide Airport monumentation location and documentation for use in establishing project control.
- e) Provide a copy of all as-built drawings of all street, drainage, utility improvements, airport civil plans, airport electrical plans, airport master drainage plan, the airport master plan, the Public Works Department As-Built drawings within the project boundaries within 15 days of the start of the Period of Service.
- f) Provide a copy of the latest version of the Airport Certification Manual. Provide a SAIA Airport Layout Plan, Airfield Safety Notes, the Aviation Department logo.
- g) Prepare the SWPPP and comply with all NPDES requirements and the TPDES General Permit related to construction activities. Supply a reproducible copy of the signed and sealed (by a licensed P.E.) SWPPP to the Consultant.
- h) Provide Consultant with a copy of the most current version of the Public Works Barricade and Construction Standard.

It is understood that the following project specific issues are included as part of the work to be performed by the Consultant (Combined SKY PLACE DRAINAGE and SKY PLACE BOULEVARD RE-ALIGNMENT):

- a) Consultant to obtain and use the latest version of AC 150/5370-10A, "Standards for Specifying Construction of Airports".
- b) Geometric layout of the Nakoma, Gordon and Sky Place Boulevard. Geometric layout of Jones Maltsberger and Sky Place Blvd.
- c) Relocation of the existing airport perimeter fence.
- d) Preparation of a Demolition Plan of the existing Sky Place Boulevard improvements to be abandoned.
- e) All construction details and notes required to construct the project. It also includes cover sheet, index of the drawings, estimated quantity sheet, and project layout maps.
- f) Determination of the Sky Place Boulevard Street Classification for pavement design.
- g) ADA accessibility ramps at the new intersection.
- h) Pedestrian crossing signals at new signalized intersection.
- i) Hydrologic and hydraulic analysis of storm sewer systems additions, modifications, relocations and extensions in Nakoma, the proposed Sky Place Blvd., the proposed underground storm sewer systems and local flow systems as a result of these improvements.
- j) Attending coordination meeting for the Traffic Signal Plans with the City Traffic Engineer.
- k) Attend security orientation/briefings/training to obtain security badges for three (3) survey crew members, one technician and one design engineer.
- l) Accompany all non-badged personnel from subconsultants, utility companies, geotechnical testing and other project personnel as determined by Consultant or the Aviation Department within the Airport fence.

It is understood that the following specific issues are excluded from part of the work to be performed by the Consultant (Combined SKY PLACE DRAINAGE and SKY PLACE BOULEVARD RE-ALIGNMENT):

- a) Subdivision Platting.
- b) Performing soil boring within the Nakoma, Gordon or Jones Maltsberger right-of-ways.
- c) Endangered species investigations.
- d) Any environmental rules or regulations.
- e) Hard Wire Loop detection systems for the traffic signal.
- f) Performing Geotechnical and Material testing during construction.
- g) Traffic signal interconnect with other traffic signals.

- h) Any issues involving Army Corps of Engineers 401 or 404 permits.
- i) Additional designs to satisfy a design criteria in excess of the 5-year storm event for the Sky Place drainage improvements.
- j) Any FEMA flood studies or coordination.
- k) Preparation of the SWPPP, NPDES and TPDES compliance.
- l) Realignment of Perimeter Road.
- m) Sidewalk design except at the two intersections and at south side of Nakoma within the transition area.
- n) New or proposed utility extensions.
- o) Design of Utility relocations (sewer, water, telephone, electric, gas, cable, fiber optics), other than suggesting proposed realignment locations.
- p) Trench Protection Design.
- q) Pot holing (Providing Quality Service Level A – Locating Services) any subsurface facilities.
- r) Fee in Lieu of Detention Studies
- s) Detention Basin Designs

ATTACHMENT D

TITLE VI GRANT ASSUANCES

During the performance of this CONTRACT, CONSULTANT, for itself, its assignees and successors in interest (hereinafter, collectively, "CONSULTANT") agrees as follows:

- A. Compliance with Regulations. CONSULTANT shall comply with the Regulations of the Department of Transportation (hereinafter "DOT"), Title 49, CFR Part 21, regarding nondiscrimination in federally-assisted programs, as they may be amended from time to time (hereinafter "Regulations"), and which are made a part hereof by reference.
- B. Nondiscrimination. The CONSULTANT, with regard to the work hereunder, shall not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate, directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the CONTRACT covers a program set forth in "Appendix B" of the Regulations.
- C. Solicitations for subcontractors, including procurements of materials and equipment. CONSULTANT'S solicitations, either by competitive bidding or negotiation, made for work to be performed under a sub-contract, including procurements of materials or leases of equipment, shall include a notification, to each potential subcontractor or supplier, of CONSULTANT'S obligations hereunder, and the Regulations regarding nondiscrimination on the grounds of race, color or national origin.
- D. Sanctions for Noncompliance. In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this CONTRACT, the CITY shall impose such CONTRACT sanctions as it or the Federal Aviation Administration (hereinafter "FAA") may deem appropriate, including, but not limited to:
 - 1. Withholding of payments to the CONSULTANT under the CONTRACT until the CONSULTANT complies; and/or
 - 2. Cancellation, termination, or suspension of the CONTRACT, in whole or in part.
- E. Incorporation of Provisions. CONSULTANT shall include the provisions of Paragraphs A through E, above, in every subcontract pertaining to this Agreement, including procurements of materials and leases of equipment issued pursuant thereto. CONSULTANT shall take such action with respect to any subcontract or procurement, as the sponsor or the FAA may direct as means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, a subcontractor or supplier as a result of such direction, CONSULTANT may request the CITY to enter into such litigation to protect the interests of the CITY. Additionally, CONSULTANT may request the U.S. to enter into such litigation to protect the interests of same.

BUDGET
FUND NO. 26-058, PROJECT NO. 058081
SKY PLACE DRAINAGE

<u>INDEX NUMBER</u>	<u>DESCRIPTION</u>	<u>CURRENT BUDGET</u>	<u>REVISION</u>	<u>REVISED BUDGET</u>
	<u>REVENUES</u>			
105304	TRANSFER FROM 51-013201	\$0.00	\$680,333.00	\$680,333.00
066340	FAA GRANT 3-48-0192-46-03	\$0.00	\$2,041,000.00	\$2,041,000.00
	TOTALS	\$0.00	\$2,721,333.00	\$2,721,333.00
	<u>EXPENDITURES</u>			
296913	UNALLOCATED EXPENDITURES	\$0.00	\$2,468,950.00	\$2,468,950.00
296921	CONSTRUCTION CONTRACT	\$0.00	\$0.00	\$0.00
296939	CONSTRUCTION CONTINGENCY	\$0.00	\$0.00	\$0.00
296947	INSPECTION FEES	\$0.00	\$0.00	\$0.00
296954	TESTING FEES	\$0.00	\$0.00	\$0.00
296970	ENGINEERING CONTRACT	\$0.00	\$223,983.00	\$223,983.00
296988	ENGINEERING CONTINGENCY	\$0.00	\$22,400.00	\$22,400.00
297010	ADMINISTRATIVE EXPENSES	\$0.00	\$6,000.00	\$6,000.00
	TOTALS	\$0.00	\$2,721,333.00	\$2,721,333.00

FUND ONLY
INDEX CODE: 001523

ACTIVITY NO. 33-02-01

931006 TRANSFER OUT FROM FUND NO. 51-013201