

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL CORRESPONDENCE
PROJECT MANAGEMENT OFFICE**

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

THROUGH: Terry M. Brechtel, City Manager

COPIES: Jelynn Burley, Assistant to the City Manager; Milo Nitschke, Director, Finance Department; Roland Lozano, Assistant to the City Manager

RE: Legal Services for Convention Center Expansion Project– Phase 1B Disputes

DATE: September 25, 2003

SUMMARY & RECOMMENDATIONS

This Ordinance expands the scope of services of an existing Legal Services Contract with George C. Baldwin, Attorney at Law of Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C. for the continued legal review and analysis of claims submitted by Todd-Ford, a subcontractor to Clark/JT Construction in association with Phase 1B of the Henry B. Gonzalez Convention Center Expansion Project, and the mediation and arbitration, if needed, of such claims for an amount not to exceed \$120,000; authorizes a contract in the amount of \$15,000 with Lewin Plunkett of Plunkett & Gibson for legal services in connection with a dispute of an insurance matter before the Disputes Resolution Board (the “Board”) established pursuant to the contract; authorizes the payment of \$ 5,000 for Rick Reed of Johnston, Ralph, Reed & Watt for services rendered on the Board; ratifies services previously performed; and provides for payment in the total amount of \$140,000.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Two primary construction contracts required for the construction of the Henry B. Gonzalez Convention Center Expansion Project (the “Project”) were awarded to Clark/JT Construction for New Construction and Renovation (Phase IB) and to Browning Construction Company for the renovation Phase 1C of the Project. Each contract required the establishment of a Disputes Resolution Board (the “Board”) to assist in the resolution of claims between the City and a contractor, with the intent of avoiding potentially costly and time-consuming litigation. The composition of the Board consists of three individuals with recognized expertise in the field of construction, with one member each appointed by the City and the

contractor, and the third person being mutually selected by the other two members. Members are compensated by their appointing party a maximum of \$200 per hour or \$1,500 per day, with the City and the contractor sharing in the expenses of the third party neutral. Although the findings of the Board are non-binding, this process has been widely utilized in the construction industry and has assisted in the resolution of several disputes relating to the Project.

Pursuant to ordinances previously adopted by City Council, George Baldwin of the firm Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C. was appointed by City Council to serve as the City's representative on the Boards and Rick Reed of Johnston, Ralph, Reed & Watt was mutually designated to serve as the third party neutral. In addition, Lewin Plunkett of Plunkett & Gibson was previously authorized to serve as a substitute on the Board as the City's representative in order to allow Mr. Baldwin to serve as the City's advocate before the Board. All three lawyers are recognized for their backgrounds in construction law and alternative dispute resolution.

It is now necessary to compensate said lawyers in their various roles on and before the Disputes Resolution Board relating to matters involving an insurance dispute under the Clark/JT Construction, as well as for Mr. Baldwin's continued representation of the City on a dispute relating to Todd-Ford, a subcontractor to Clark, which City Council has authorized to be referred to mediation under separate action this day.

POLICY ANALYSIS

When a particular legal expertise does not exist within the City Attorney's Office, it has been the practice of the City to retain outside assistance, subject to the execution of a Legal Services Contract, which sets out the particular services to be rendered, hourly fees and associated budgets, and adherence to the City Attorney's Office Outside Counsel Guidelines. Staff has reviewed the fees proposals submitted by Mr. Baldwin and Mr. Plunkett for the review and defense against these claims and recommends the approval of said fees in this action.

FISCAL IMPACT

This expenditure of \$ 140,000.00 will be funded from proceeds of the 1996 Hotel Occupancy Tax Revenue Bond sale and paid out of Capital Projects Fund 47 - "Convention Center Expansion Project" and does not impact the general fund.

SUPPLEMENTARY COMMENTS

The required Ethics Ordinance Disclosure Statements are attached.

COORDINATION

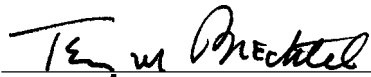
This action was coordinated with the City Manager's Office and the Finance Department.

SIGNATURES

A handwritten signature in cursive script, reading "Andrew Martin", written over a horizontal line.

Andrew Martin
City Attorney

APPROVED:

A handwritten signature in cursive script, reading "Terry M. Brechtel", written over a horizontal line.

Terry M. Brechtel
City Manager

City of San Antonio Discretionary Contracts Disclosure*

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.

State "Not Applicable" for questions that do not apply.

* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed.

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

Not applicable

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

Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C.

and the name of:

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

Blake V. Peck, PE, CCM
MBP Construction Engineering
8315 Lee Highway, Suite 400
Fairfax, Virginia 22031-2215

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

Not applicable

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.


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

Not applicable

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 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 individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common law. 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:
Not applicable		

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 question as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

Not applicable	
Signature: 	Title: Principal
Company: Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C.	
Date: 09/17/2003	

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a substantial number of persons would conclude that the facts if true, require removal or require careful consideration of whether or not refusal is

City of San Antonio

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

Plunkett & Gibson, Inc.

and the name of:

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

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;

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.