

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
PUBLIC WORKS DEPARTMENT**

TO: Mayor and City Council

FROM: Thomas G. Wendorf, P.E., Director of Public Works

THROUGH: Terry M. Brechtel, City Manager

COPIES: Melissa Byrne Vossmer; Andrew Martin; Peter Zanoni; Milo D. Nitschke; file

SUBJECT: Medical Drive and Ewing Halsell Drive Intersection, Field Alteration Number 5

DATE: March 4, 2004

SUMMARY AND RECOMMENDATIONS

This Ordinance approves the City of San Antonio Field Alteration No. 5 in the amount of \$125,805.53 to the contract of SAECO Electric & Utility, Ltd., and authorizes additional construction contingency in the amount of \$20,000.00 for the total amount of 145,805.53 in connection with the Medical Drive and Ewing Halsell Intersection project, an authorized Certificate of Obligation funded project located in Council District 8.

This ordinance will become effective immediately upon eight (8) affirmative votes. Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

This project provides for the reconstruction of the intersection at Medical Drive and Ewing Halsell and includes signal improvements, curbs, sidewalks, and directional signage for the area medical facilities. Construction is ongoing and completion is anticipated in March of 2004.

This Ordinance authorizes Field Alteration Number 5 in the amount of \$125,805.53 which includes \$66,296.25 for the addition of three way-finding signs and one entry sign, \$40,897.50 for the reconciliation of overages for an additional 779 cubic yards of street excavation, and \$18,611.78 for an additional 1,570 linear feet of curb removal. At the time that the project was bid, the sign package was not yet approved by the Historical & Design Review Commission (HDRC). The City is responsible for the funding and installation of the way-finding signs in accordance with the attached Agreement for Medical Center Improvement approved by City Council on May 1, 2003 through Ordinance Number 97562. Medical Center Alliance shall maintain the signs following construction. It is necessary for City Council Approval of this Field Alteration to become effective immediately to allow for the timely completion of the project and to avoid extending the inconvenience and hazards to motorists caused by the construction project.

This construction contract was approved by City Council on May 1, 2003 for the original amount of \$700,521.69. Previously approved Field Alterations increased the contract amount by \$40,476.35 to \$740,998.04. This Ordinance will increase the total amount approved for this contract to \$866,803.57.

POLICY ANALYSIS

Approval of this ordinance will be a continuation of City Council policy to complete previously approved Certificate of Obligation funded Capital Improvement Projects.

FISCAL IMPACT

This is a one-time capital improvement expenditure within budget and included in the FY04-09 Capital Improvement Program Budget. Funds in the amount of \$145,805.53 are available from Certificates of Obligation and are authorized payable as follows:

\$ 125,805.53	payable to SAECO Electric & Utility, Ltd. for construction expenses
\$ 20,000.00	payable for miscellaneous construction contingency

COORDINATION


This action was coordinated with the Office of Management and Budget and the Finance Department.

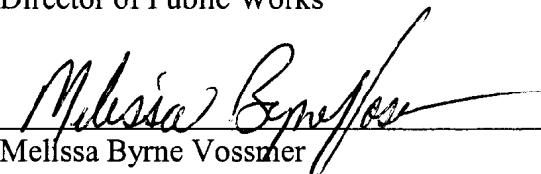
SUPPLEMENTARY COMMENTS

This contract was developed using the formal competitive bid process; therefore, a Discretionary Contracts Disclosure Form is not required.

ATTACHMENTS

1. Project Map
2. Field Alteration Request No. 5

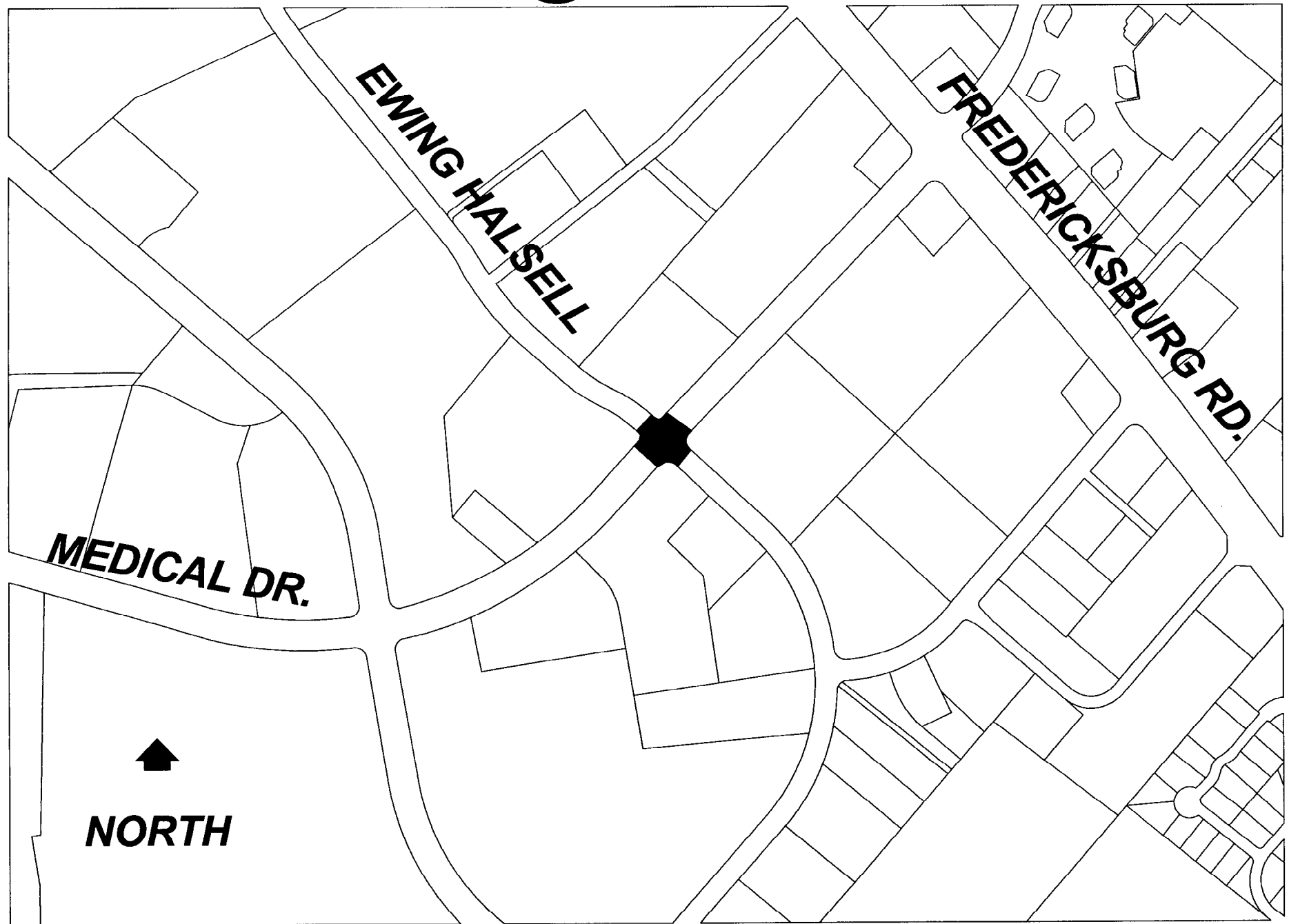
for 
Thomas G. Wendorf, P.E.
Director of Public Works


Melissa Byrne Vossmer
Assistant City Manager

APPROVED:


Terry M. Brechtel
City Manager

MEDICAL DR. @ EWING HALSELL



Date February 3, 2004

Field Alteration No. PW 5

Project Name (as shown on the Work Project Authorization):

Medical Drive and Ewing Halsell Drive Intersection

2004 FEB 17 AM 9:26

The revision or amendment described below to the work originally or previously specified is hereby requested, including all changes in costs. (Describe work to be added or deleted. Attach revised plan sheet affected or drawings as required):

Adds "Way Finding Signs" \$66,296.25

Adds additional 779 CY for Street Excavation \$40,897.50

Adds additional 1,570 LF for Curb Removal \$18,611.78

Justification for proposed alteration (description in detail as to why this work is to be added or deleted - use attachments if necessary):

The Street Excavation and Curb Removal were under estimated from the original construction contract and are necessary to complete the project.

Resulting change in contract cost by this Field Alteration: \$125,805.53 ☒ Increase ☐ Decrease (attach summary)

Resulting in an: ☐ Increase ☐ Working Day
☐ Decrease 10 ☐ Calendar Day (To be negotiated by the Contractor and the City.)

Requested by:

City of San Antonio

City, Consulting Engineer/Architect, Other
(Please Specify)

By:

Scott Olson

Date:

Title: General Manager

Firm: SAECO Electric & Utility LTD.

Contractor (type in full name)

Recommended

Others: ☐ (If required; i.e., City Dept., S.A.W.S., etc.) Date:

David McBeth

Date:

Firm: Pape Dawson

Walter E. Childs

Date:

Construction Inspections Manager

Hector Canales, EIT

Date:

Project Manager

Razi S. Hosseini, P.E.

Date:

Assistant City Engineer

William E. Krause

Date:

Capital Programs Manager

Douglas W. Yerkes, Ph.D., P.E.

Date:

City Engineer

APPROVED:

Terry M. Brechtel

Date:

City Manager

Thomas G. Wendorf, P.E.

Date:

Director of Public Works

FOR CITY USE ONLY:

Professional Services Fees for this Field Alterations are ☐ eligible ☐ ineligible

Original Contract Amt. \$ 700,521.69
Previous Approved FAs \$ 40,476.35
This Field Alteration \$ 125,805.53
Total \$ 866,803.57

Const. Contg. Fund \$ _____
Previous Approved FA \$ _____
This Field Alteration \$ _____
Total Field Alterations \$ _____
Balance \$ _____

Ord. No. 97562 5/1/03

RECEIVED

FEB 11 REC'D

CONST. INSP.

8:00

SAECO ELECTRIC & UTILITY LTD.P.O. Box 841
Helotes, Texas 78023Phone: 210-695-4526
Fax: 210-695-2516**PROPOSAL FOR: MEDICAL DRIVE AT EWING HALSELL INTERSECTION IMPROVEMENTS****2 PAGES**

Date:	January 28, 2004
To:	Hector Canales
Company:	City of San Antonio, Department of Public Works
Fax:	210-207-4418

From:	Scott Olson
Company:	SAECO ELECTRIC & UTILITY LTD.
Phone:	210-695-4526
Fax:	210-695-2516

Hector:

We are pleased to quote the following for the above referenced project.

INCLUSIONS:

Furnish and install three (3) way finding signs and one (1) entry sign per documents issued by Rialto Studio dated 12/11/03

Lane closures

Traffic cop

Clean-up

50% deposit required by sign manufacturer prior to fabrication

Installation to begin approximately 12 weeks from receipt of executed change order

All signs placed as close as possible to locations indicated on drawings

EXCLUSIONS:

Permit fees

Electrical and or lighting to signs

Relocation of utilities in conflict


SAECO ELECTRIC & UTILITY LTD.P.O. Box 841
Helotes, Texas 78023Phone: 210-695-4526
Fax: 210-695-2516**THIS PROPOSAL IS BASED ON THE FOLLOWING ASSUMPTIONS:**

1. SAECO Electric & Utility Ltd. shall be responsible for loss or damage resulting from its negligent acts and/or omissions. Should loss or damage result from the joint negligence of SAECO and owner, each party shall be responsible for its proportionate share of negligence involved.
2. SAECO shall not be responsible for any special, indirect, incidental or consequential loss or damage.
3. SAECO will be responsible for only those hazardous substances that it brings to a jobsite for its use in the work. Owner shall be responsible for any hazardous substances existing at the jobsite prior to and after completion of the work.

TOTAL BID: \$66,296.25

cc: Dick McNary, Project Control
 Ken Fowler, Rialto Studio
 David McBeth, Pape-Dawson
 File-2303

AGREEMENT FOR MEDICAL CENTER IMPROVEMENT

This Agreement ("Agreement") is entered into to be effective as of the 1st day of May 2003, by and between the City of San Antonio ("City"), a municipal corporation, and Medical Center Alliance, a non-profit corporation, hereinafter referred to as "Private Party."

WHEREAS, the Private Party is comprised of certain owners of property in the Medical Center Area (described below) and will be benefited by this Agreement; and

WHEREAS, the Medical Center Area is the area within the boundaries described on Exhibit "A" attached hereto and incorporated herein for all purposes; and

WHEREAS, City has approved certain funding for improvements to the Medical Center Area; and

WHEREAS, the City and Private Party have agreed, in the interest of improving the traffic pattern in the Medical Center Area, improving congestion in the Medical Center Area, improving aesthetics in the Medical Center Area, and pursuant to the terms hereof, to participate in a joint Project (hereinafter defined); and

NOW, THEREFORE, in consideration of the terms and conditions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. THE PROJECT

Private Party shall provide the plans for and City shall construct the Project described in Exhibit "B" attached hereto and incorporated herein for all purposes in order to protect the health, safety, and welfare of the general public. City and Private Party, subject to the terms hereof, shall provide their respective contributions (subsequently defined herein) and referred to herein as each party's "Contribution."

II. OBLIGATIONS OF PARTIES

- A. Private Party shall provide all necessary engineering and design services for the Project, subject to review and approval by the City. Private Party shall provide such other services and obligations as set forth below and elsewhere in this Agreement.
 - 1. Provide a pictorial description of the property affected by the Project. That property is more fully described on Exhibit "C" attached hereto and incorporated herein for all purposes;
 - 2. Provide the design for the Project, including by example, and not limitation, providing City a complete set of plans and specifications ("Plans and Specifications") subject to City approval and in accordance with City design standards. The Plans and Specifications shall include all design documents prepared for the Project by Private Party.

3. Develop a traffic control plan for the Project;
4. Provide continuing availability and assistance throughout construction of the Project, including, without limitation, addressing any change orders in the Plans and Specifications;
5. Provide City with two traffic signal poles and arms, custom designed as specified in the Plans;
6. Expend funds, up to the amount of \$75,000.00, as necessary in excess of City Contribution (defined below) to complete the Project and in a manner necessary to avoid delay in construction of the Project. In the event funds are necessary to complete the Project in excess of \$632,000, the parties hereto shall collaborate on changing the design of the Project. City, in its reasonable discretion, shall have the final determination and approval of the re-design of the Project.
7. City shall be required to only expend funds up to the amount of City Contribution to carry out its obligations under this Agreement. In the event the requirements of the Project or the Contractor requires the expenditure of funds in excess of City's Contribution, Private Party, on demand by City, shall provide funds, up to the amount of \$75,000.00 to City. City covenants to use such funds in the construction of the Project. In the event the parties foresee prior to commencement of construction that the Contract requires funds in excess of City Contribution, Private Party will make the appropriate contribution to City before the commencement of construction.
8. Obtain clear (marketable) fee title, to and for City for the property listed in Exhibit "D" attached hereto and incorporated herein for all purposes, City shall pay no consideration for these properties.

B. City shall construct the Project, which shall include, without limitation, the following:

1. Take title to all necessary easements and fee interests in real property necessary for City to obtain full ownership of the Project;
2. Publish a bid solicitation and award of a contract for the Project including construction of improvements in compliance with all applicable laws and regulations;
3. Oversee construction of the Project;
4. Expend funds in an amount up to \$557,000.00 ("City Contribution") to construct the Project;
5. Award the bid to the low bid responsive contractor ("the Contractor") in accordance with City's required and customary procedure;
6. Execute a Contract (the "Contract") with Contractor to construct the Project in accordance with the Plans and Specifications in the form customarily used by the City for other capital projects;

III. MISCELLANEOUS

1. All Plans and Specifications shall be subject to approval by City before any funds are expended. Private Party shall cause the Plans and Specifications to be modified as required, within City's reasonable discretion, both before and during construction of the Project.
2. Representatives of the Private Party shall have access to the Project during construction provided such access shall be accompanied by an agent of City and will cause no delay, hinder or interfere with Contractor, or with City's efforts or delay the Project.
3. Nothing herein shall be deemed to impose liability on Private Party and/or City for actions or omissions of any third Party (including, without limitation, any third party contractor or engineer).
4. Any modifications to this Agreement must be in writing, and signed by each signatory hereof or its successor, or they shall not be binding upon any of the parties hereto.
5. City shall execute and effectuate change orders as such become necessary with regard to the construction contract between City and Contractor, without consent of Private Party.
6. If any covenant, provision, or agreement of this Agreement shall be held illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that this Agreement shall otherwise continue in full force and effect. It is the further intention of the parties that in lieu of each covenant, provision or agreement of this instrument that is held illegal, invalid, or unenforceable, there be added as a part hereof a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.
7. The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. No party may, without the prior written consent of all other parties hereto, assign any rights, powers, duties, or obligations hereunder. This Agreement shall not inure to the benefit of any party other than the parties to this Agreement and their successors and permitted assignees.
8. Neither this Agreement nor any part thereof shall be construed as creating a partnership, joint venture or other business affiliation among the parties or otherwise.
9. This Agreement and the exhibits hereto supersede any and all other prior or contemporaneous agreements, oral or written, among the parties hereto with respect to the Project.
10. All notices given with respect to this Agreement shall be in writing and deemed delivered upon receipt if hand delivered or sent by confirmed facsimile transmission, and, if mailed, deemed received on the third business day after deposit in the United States mail, postage prepaid, addressed to the parties as shown below:

IF TO CITY:

City of San Antonio
ATTN: CITY MANAGER
P.O. Box 839966
San Antonio, Texas 78283-3966
FACSIMILE: (210) 207-4217

IF TO PRIVATE PARTY:

Mr. Richard McNary
Project Control of Texas
17300 Henderson Pass, Suite 110
San Antonio, Texas 78232
FACSIMILE: (210) 545-5450

AND

WITH A COPY TO:

City of San Antonio
Office of the City Attorney
ATTN: ANDREW MARTIN
City Hall/3rd Floor
P.O. Box 839966
San Antonio, Texas 78283-3966
FACSIMILE: (210) 207-4004

Mr. William Balthrope
President, Medical Center Alliance
4242 N. Pan Am Expressway
San Antonio, Texas 78210
FACSIMILE: (210) 223-6411

AND

Mr. James F. Summers
Fulbright & Jaworski L.L.P.
300 Convent, Suite 2200
San Antonio, Texas 78205
FACSIMILE: (210) 270-7205

11. This Agreement, shall be governed by and construed under the laws of the State of Texas. Venue for any legal action arising out of this Agreement shall be exclusively in Bexar County, Texas.
12. The parties hereto agree they will execute such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate the purposes of this Agreement.
13. Each signatory hereof represents to the other parties to this Agreement that he or she has been duly authorized to do so and in so doing shall bind the party on whose behalf he or she is signing to the terms hereof.
14. Each party hereto shall pay its own attorneys' fees with respect to the drafting, review and negotiation of this Agreement and all subsequent instruments and agreements related to the Project, and none of such fees shall in any event ever be considered part of the Project costs payable pursuant to the terms hereof. In the event it should ever become necessary for any party to retain the services of any attorney to enforce its rights hereunder against any other party(ies) hereto, then, should such party prevail, to shall be entitled to recover, in addition to any other damages and awards to which it may be entitled, its reasonable attorneys' fees from the defaulting party(ies).

15. Any amounts which any party hereto may become obligated to pay to any other party under the terms hereof shall be paid within thirty (30) days after the same become due, and in the event such amounts are not paid within such time, then they shall accrue interest from the expiration of such thirty (30) day period until paid at the lesser of eighteen percent (18%) per annum or the maximum nonusurious rate allowed by applicable law.
16. Time is of the essence of this Agreement and each and every provision hereof.
17. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument.

THE CITY OF SAN ANTONIO

MEDICAL CENTER ALLIANCE

Maura Shannon for
Printed Name: Thomas G. Wendorf
Title: Director of Public Works
DWT my

Wm. D. Balthrope
Printed Name: WM. D. BALTHROPE
Title: CHAIRMAN

Ordinance No. 97562