

**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; Andrew W. Cameron ;
Milo D. Nitschke; file

SUBJECT: City-wide Sidewalk, Street and Neighborhood Improvement Projects

DATE: September 2, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance accepts the terms and conditions and authorizes the execution of two (2) Indefinite Delivery Professional Services Agreements for engineering consulting services with HNTB Corporation, and Bain Medina Bain, Inc., each in an amount not to exceed \$400,000, for a total ordinance amount of \$800,000, for as-needed services in connection with City-wide sidewalk, street and neighborhood improvement projects. Each of these agreements will be for a term of one year, with an option to extend all or any one of the agreements for two (2) additional one (1) year periods.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

The Public Works Department released a solicitation for Indefinite Delivery Engineering Services to include professional program management, design, and construction administration services in connection with sidewalk and street improvement projects that are similar in nature and located City-wide. Based on recommendations from the Citizen's Bond Oversight Commission (CBOC) and as part of the department's continuing efforts to improve efficiency, Public Works will utilize services under these agreements to expedite project delivery and completion. These projects may include the construction or reconstruction of sidewalks, ADA improvements, neighborhood traffic calming, drainage, streets, and other infrastructure improvements. Services may also include evaluation of neighborhood sidewalks and mobility and traffic concerns. The Consultants may be called upon to map, with the use of the Geographic Information System (GIS), pedestrian mobility deficiencies to evaluate complaints, recommend design and to prioritize project implementation. The Consultants may also be asked to integrate work product and to make improvements to the City's GIS Infrastructure Model.

The selected consultants will be called on during the term of the indefinite delivery agreements for the design and implementation of projects that may include:

Adams Hill Sidewalks – Horal to Dead End: Reconstruction of sidewalks, curbs, and driveways along Adams Hill from Horal Drive to the dead end.

Cincinnati – Fredericksburg to IH 10: Reconstruction of curbs, sidewalks, and driveways as required, as well as the construction of curb ramps and for the mill and overlay of the street as required.

Cornell – Brazos to Colorado: Reconstruction of Cornell Street to include curbs, sidewalks and driveway approaches.

Cupples Sidewalks – Westside of Saltillo to Merida: Reconstruction of sidewalks on the west side of Cupples Road from Saltillo to Merida Street to standard width.

District 7 Sidewalks: Construction of sidewalks in City Council District 7 at locations to be determined at a later date.

Pearl Parkway – Broadway to Avenue A: Construction of sidewalks, as well as landscaping and street and pedestrian area enhancements.

Demya Reconstruction – Hunt to Loop 410: Construction of sixty feet of sidewalks and wheelchair ramps on the north side of Demya from Loop 410 to Tarasco, as well as for the construction of sidewalks and driveway approaches on both sides of Demya from Tomar to Horal. It will also provide for the reconstruction of sidewalks and driveways on both sides of Demya from Horal to Concio with the construction of wheelchair ramps at the Demya intersections of Hunt, Concio, and Tomar.

Jo Marie: W.W. White to Deadend Phase I: Programming services to develop project scope of services within funding parameters.

Frio City Road – Brazos to Zarzamora: Programming services to develop project scope of services within funding parameters.

Elsie – Burbank Loop to Flores: Reconstruction of Elsie Street from S. Flores to Burbank Loop to standard width including curbs, sidewalks, driveway approaches and drainage, as needed.

Skyline Neighborhood Improvements, Phase I – Erin, Bell, Cisco, and Middle Streets: Neighborhood-wide surface drainage improvements.

District 1 Pedestrian Mobility & Traffic Calming Projects: Programming services to develop project scope of services within funding parameters.

W. Glenn – Burbank Loop to Flores: Programming services to develop project scope of services within funding parameters.

El Jardin/Valencia – Castroville to Northington: Reclamation of El Jardin Road, from Northington Rd. to Hwy. 90 and Calle Valencia, from Castroville

Road to Hwy. 90 to standard street width, and will include curbs, sidewalks, driveway approaches and drainage as necessary.

Remuda at Westedge Sidewalks: Construction of standard width sidewalks on Remuda at the Westedge intersection.

District 10 Sidewalks: Construction of sidewalks on Northlight Terrace, Shadowlight Terrace, Moonlight Terrace, Twilight Terrace, Sidewalk Terrace, and Early Way Drive.

Hackberry – Steves to Southcross: Reconstruction of the intersection of Hackberry and Fair Avenue to improve drainage, and the re-striping of the four lane roadway to convert it to two-lanes with a center turn lane and one bicycle lane.

Ozark – Erskine to Williamsburg: Reconstruction of existing local streets to include curbs, sidewalks, and driveway approaches.

These proposed projects, if approved for construction, will be implemented in a priority to be determined by the City's Public Works Department, and various similar neighborhood improvement projects, if approved at a later date, may be included under the authority of the indefinite delivery agreements. Services performed on any subsequent projects or locations, under the indefinite delivery agreements, will be coordinated through the City's Public Works Department.

HNTB Corporation, and Bain Medina Bain, Inc. were selected by the Public Works Architectural and Engineering Selection Committee as the best-qualified of fourteen respondents to the City's solicitation. The Evaluation/Rating Summary Sheet is included herein as Attachment 1.

This ordinance will approve the execution of two Indefinite Delivery Professional Services Agreements with these firms, each in an amount not to exceed \$400,000. The actual work activities will be allocated in the form of work orders, approved by the Director of Public Works, and delivered by the City on a rotating basis, with the exception of specialized engineering work activities in an instance where the proposed work requires certain qualifications held by a particular firm. Every effort will be made to distribute the individual work orders evenly, so that the amounts expended under these agreements remain equitable between the two firms. In those circumstances where it is necessary to take a firm out of the rotation for a specialized work order, the rotation will be reinstated as quickly as possible.

The term of each of these two Indefinite Delivery Professional Services Agreements shall be for a period of one (1) year from the date of the fully executed agreements, with the option to renew any or all of the agreements for two additional one-year periods, upon approval of the Director of Public Works. The appropriation of any funding exceeding this original authorized amount will require City Council approval.

POLICY ANALYSIS

Approval of this ordinance will be consistent with City Council policy to ensure public safety and commitment to neighborhood revitalization.

FISCAL IMPACT

This is a one-time capital improvement expenditure and not included in the FY 04-09 Capital Improvement Program Budget. Funds for these services in an amount not to exceed \$400,000 for each of the two professional services agreements are authorized payable to HNTB Corporation, and Bain Medina Bain, Inc. respectively, and shall be allocated as required from project funds. The Director of Finance is authorized to make the necessary transfers when the specific work orders are identified and assigned.

COORDINATION

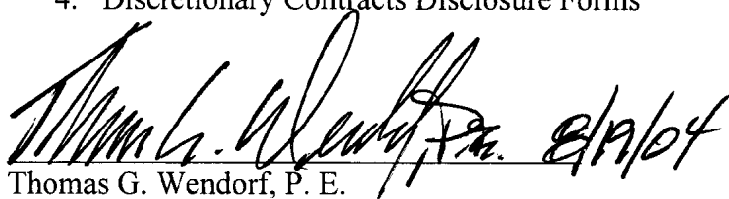
This request for ordinance has been coordinated with the City Attorney's Office, the Finance Department, Housing and Community Development, and the Office of Management and Budget.

SUPPLEMENTARY COMMENTS

The Discretionary Contracts Disclosure Forms as required by the Ethics Ordinance are included herein as Attachment 4.

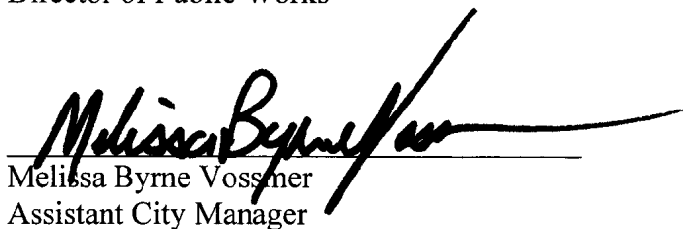
ATTACHMENTS

1. Rating/Evaluation Summary Sheet
2. Professional Services Agreement, HNTB Corporation
3. Professional Services Agreement, Bain Medina Bain, Inc.
4. Discretionary Contracts Disclosure Forms



Thomas G. Wendorf, P. E.

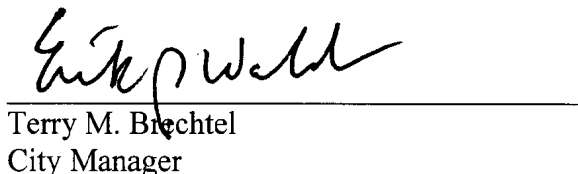
Director of Public Works



Melissa Byrne Vossmer

Assistant City Manager

Approved:



Terry M. Brechtel

City Manager

**PROFESSIONAL SERVICES AGREEMENT
FOR
STAND-BY PROFESSIONAL ENGINEERING SERVICES
CITY-WIDE SIDEWALK, STREET AND
NEIGHBORHOOD IMPROVEMENT PROJECTS**

STATE OF TEXAS }

COUNTY OF BEXAR }

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 _____, 2004, and **HNTB Corporation by and through its Principal in Charge, Tom D. Ellis, P.E.**, (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 professional 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

2.1 **CONSULTANT** shall complete the work described in the Contract Documents, being Exhibits "A" and "B" incorporated herein. The City guarantees neither a particular volume of work nor a minimum number of units of work. This is a stand-by agreement and specific requirements as to types, numbers, conditions, procedures and locations pertaining to the work or services provided hereunder will be established by the municipal project manager of the requesting City Department on a case by case basis for each job, request or Work Task provided by the City.

2.2 The term of this AGREEMENT shall commence 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 shall remain in force for the period of one year. As the enabling Ordinance provides, the City shall retain an option to renew this contract for two (2) additional one (1) year periods. The Director of Public Works shall have the authority to exercise such options at his discretion. In the event such options are exercised and any material provision of the AGREEMENT is modified, such amendment must be approved by the City Council.

2.3 The City may authorize additional calendar days or make adjustments to the Project Schedule and related deliverables, within the existing scope of this AGREEMENT, upon mutual AGREEMENT in writing, between the Director of the Department of Public Works, or his designee and **CONSULTANT**, as to the reasonableness of said additional time or adjustment.

2.4 Both the City and the **CONSULTANT** agree that additional services may be required for this project based upon the duration of construction activities, extended working hours by the **CONSULTANT**, and additional services required by the Owner and that this Contract may be amended to increase the scope of work to include said additional services upon mutual AGREEMENT, and written notification of approval and understanding, from the City and the **CONSULTANT** as to the reasonableness of the scope of work, period of service, and fees for such additional services. Such increase in scope of work and associated payment shall be subject to the approval of the City Council as evidenced by the passage of a City ordinance.

III. SCOPE OF SERVICES

3.1 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 the Scope of Services set forth herein and in the attached documents.

3.1.1 ATTACHMENT "A": (Scope of Services)

3.1.2 ATTACHMENT "B": (CONSULTANT's Fee Proposal/Price Schedule)

3.1.3 ATTACHMENT "C": (Compensation)

3.2 Where applicable, **CONSULTANT** shall be represented by a registered professional licensed to practice in the State of Texas at meetings of any official nature concerning the Project, including but not limited to scope meetings and review meetings.

3.2.1 The **CONSULTANT** under this contract shall provide services that constitute the practice of engineering and additional services within the meaning of Title 6 of the Texas Occupations Code.

3.2.2 Where applicable, all completed documents submitted for final approval or issuance of a permit shall bear the seal with signature and date adjacent thereto of a registered professional.

IV. COORDINATION WITH THE CITY

4.1 **CONSULTANT** shall hold periodic conferences with Director, so that the Project will have the full benefit of **CITY's** experience and knowledge of existing needs and be consistent with its current policies and standards. Conferences shall be scheduled as agreed to by Parties. **CITY** shall make available, for **CONSULTANT's** use, all existing data in its possession relative 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 In consideration of the professional services performed by **CONSULTANT**, as stated and contained herein, the City shall pay the **CONSULTANT** fees based on the Exhibits attached hereto and, in no event shall the total dollar amount of all invoices during the term of this AGREEMENT exceed four hundred thousand and no/100 dollars (**\$400,000**).

5.2 A negotiated fixed price, or lump-sum amount for each Work Task may be derived based on the scope of services, and will be based substantially on contractual pre-described and not to exceed pre-priced tasks and or hourly rates included in Exhibit "B".

5.3 Payment may also be made based solely on the units of work completed and approved by the Director, and the associated unit price for each Work Task as may be described in **CONSULTANT's** proposal/fee schedule (Exhibit "B").

5.4 Monthly payments for work performed in the various Work Tasks will be made to Consultant upon Consultant's furnishing itemized invoices reflecting past due amounts invoiced, current billing periods and amounts, and the balance of approved contract funds remaining, in a form acceptable to the Director and indicating the value of services performed to date.

5.5 Consultant must obtain the prior written approval of the City for any additional line items not described in the Contract Documents. Invoices for additional services which are not included in the Documents (not described in the Exhibits hereto), must be supported with letters from the Director approving said services as being appropriately within the scope of this AGREEMENT.

5.4 Payments to the consultant shall be in the amount shown by the monthly billings and other documentation submitted and shall be subject to the City's approval. All services shall be performed to the City's satisfaction, which satisfaction shall be judged by the Director in his or her sole discretion, and the City shall not be liable for any payment under this AGREEMENT for services which are unsatisfactory and which have not been previously approved by the Director. The final payment due hereunder will not be paid until all reports, data, and documents have been submitted, received, accepted and approved by the City.

VI. TERMINATION AND/OR SUSPENSION OF WORK

6.1 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.

6.2 Termination Without Cause.

6.2.1 This AGREEMENT may be terminated by either party upon written notice in accordance with Article VI. 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.

6.2.2 This AGREEMENT may be terminated by CITY prior to Director giving CONSULTANT written notice to proceed should the 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 VI, and shall be effective upon delivery by CITY in accordance with Article VI.

6.2.3 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.

6.3 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:

6.3.1 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

6.3.2 CONSULTANT violates or fails to perform any covenant, provision, obligation, term or condition of a material nature contained in this AGREEMENT.

- 6.3.3 **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
- 6.3.4 **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
- 6.3.5 **CONSULTANT** fails to comply in any respect with the insurance requirements set forth in this AGREEMENT; or
- 6.3.6 **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.
- 6.4 **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.
- 6.5 **Effect of Termination.** 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 VI.
- 6.5.1 Regardless of how this AGREEMENT is terminated, and subject to 6.5.2, **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 documents, papers, records, charts, and reports prepared pursuant to this AGREEMENT and any other materials or information produced as a result of or pertaining to the services rendered by **CONSULTANT**, or provided to **CONSULTANT**. 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.
- 6.5.2 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.

6.5.3 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.

6.5.4 **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.

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

6.6.1 **CITY** may suspend this AGREEMENT by issuing a signed, written notice of suspension (citing this paragraph) as provided in Article VI, 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.

6.6.2 **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 VI, 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**.

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

6.7.1 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.

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

6.7.3 All completed or partially completed 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.

6.7.4 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 6.7.4 shall prevent **CONSULTANT** from submitting invoices for partial payments for work performed prior to the termination date as provided by Article V, Compensation.

- 6.7.5 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.
- 6.7.6 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.
- 6.7.7 **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.

VII. INSURANCE REQUIREMENTS

7.1 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 executed 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.

7.2 **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:

<u>TYPE</u>	<u>MINIMUM AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Commercial General (public) Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual liability	<u>Combined Single Limit for Bodily Injury and Property Damage</u> of \$1,000,000 per; General Aggregate limit of \$2,000,000 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.

7.3 **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 VII herein within 10 days of the requested change.

7.4 **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**.

7.5 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
Public Works Department – Capital Programs	Risk Management
P.O. Box 839966	111 Soledad, Suite 1000
San Antonio, Texas 78283-3966	San Antonio, Texas 78205

7.6 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 VI, Section 6.7.

7.7 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.

7.8 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.

VIII. INDEMNIFICATION

8.1 **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.**

8.2 **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.

8.3 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.

IX. ASSIGNMENT OF RIGHTS OR DUTIES

9.1 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.

9.2 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**.

9.3 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.

9.4 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 VI, 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.

9.5 **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 VI, Termination.

X. INDEPENDENT CONTRACTOR

10.1 **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**.

10.2 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**.

XI. 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.

XII. SBEDA REQUIREMENTS

12.1 **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").

12.2 **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.

12.3 **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. 96754, 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.

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

12.5 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.

12.6 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.

12.7 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**.

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

XIII. 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
Public Works Department – City Architect's Office
Attn: Jesse Fernandez
P.O. Box 839966
San Antonio, Texas 78283-3966

If intended for CONSULTANT, to:

HNTB Corporation
85 N.E. Loop 410, Suite 304
San Antonio, Texas 78216
Attn: Tom D. Ellis, P.E.

XIV. INTEREST IN CITY CONTRACTS PROHIBITED

14.1 **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.

14.2 **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.

XV. 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.

XVI. 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.

XVII. 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.

XVIII. APPLICABLE LAW

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

XIX. 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.

XX. 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.

XXI. 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.

XXII. 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.

XXIII. NON-WAIVER OF PERFORMANCE

23.1 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.

23.2 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.

XXIV. 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.

XXV. 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.

XXVI. INCORPORATION OF ATTACHMENTS

26.1 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" (CONSULTANT's Fee Proposal/Price Schedule)

ATTACHMENT "C" (Compensation)

26.2 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.

XXVII. ENTIRE AGREEMENT

27.1 This AGREEMENT, together with its authorizing ordinance and Attachments, as listed in Article XXVI, 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.

ATTACHMENT "A"

(SCOPE OF SERVICES)

Scope of Work

1. The scope of services provided in a Work Task may include professional program management, design, and construction administration services in connection with sidewalk and street improvement projects that are similar in nature and located City-wide. These improvements may include the construction or reconstruction of sidewalks, ADA improvements, neighborhood traffic calming, drainage, streets, and other infrastructure improvements. Services may also include evaluation of neighborhood sidewalks and mobility and traffic concerns. Consultant may be called upon to map, with the use of the Geographic Information System (GIS), pedestrian mobility deficiencies to evaluate complaints, recommend design and to prioritize project implementation. Consultant may also be asked to integrate work product and to make improvements to the City's GIS Infrastructure Model.
2. The scope of work will be specifically identified in Work Tasks provided by the City and in the subsequent individually negotiated and City-accepted Consultant proposals. The negotiated amount for each specific scope of services may be derived as a fixed price, or lump-sum based substantially on contractual pre-described and not to exceed pre-priced tasks and or hourly rates included in Exhibit "B".
3. Payment may also be made based solely on the units of work completed and approved by the Director, and the associated unit price for each Work Task as may be described in Consultant's fee proposal/fee schedule (Exhibit "B").
4. The Consultant shall commence work on the project once it has been thoroughly briefed regarding the scope of the specific project and has been notified in writing to proceed with the Work.
5. The Consultant, in consideration for the compensation herein provided, shall render professional engineering consulting services necessary for the development of the Project to final completion.

ATTACHMENT “B”

(CONSULTANT'S FEE PROPOSAL/PRICE SCHEDULE)



ARCHITECTS ENGINEERS PLANNERS

85 NE Loop 410
Suite 304
San Antonio, Texas
78216
(210) 349-2277
Fax (210) 349-2101
www.hntb.com

August 4, 2004

Mr. David Matney, P.E., Project Manager
City of San Antonio Public Works Department
Municipal Plaza Building
114 W. Commerce Street
San Antonio, Texas 78205

Subject: Citywide Sidewalk and Street Improvements Project
Rate Schedule

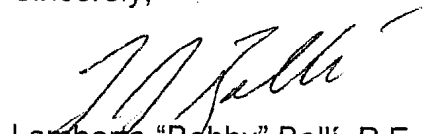
Dear Mr. Matney,

The HNTB Team appreciates the opportunity to submit the attached rate schedules for the Citywide Sidewalk and Street Improvements Project. We are confident that these rates and charges schedule meet your needs discussed in previous meetings.

We are anxious to begin assisting you and your staff with your project endeavors.

As an extension to your staff, please feel free to contact me at anytime at 210 541-1938 (direct) or 956 330-7225 (cell).

Sincerely,



Lamberto "Bobby" Balli, P.E.
Director of Municipal Services

Xc: Team Project Managers
40025 file

The HNTB Companies

OFFICES: ALEXANDRIA, VA; ANNAPOLIS, MD; ATLANTA, GA; AUSTIN, TX; BATON ROUGE, LA; BOSTON, MA; CHARLESTON, SC; CHARLESTON, WV; CHICAGO, IL; CLEVELAND, OH; COLUMBUS, OH; DALLAS, TX; DENVER, CO; DETROIT, MI; ELKINS, WV; FT. WORTH, TX; HARTFORD, CT; HICKSVILLE, NY; HOUSTON, TX; INDIANAPOLIS, IN; JACKSONVILLE, FL; KANSAS CITY, MO; KNOXVILLE, TN; LANSING, MI; LOS ANGELES, CA; LOUISVILLE, KY; MADISON, WI; MIAMI, FL; MILWAUKEE, WI; MINNEAPOLIS, MN; NASHVILLE, TN; NEW YORK, NY; OAKLAND, CA; ORANGE COUNTY, CA; ORLANDO, FL; OVERLAND PARK, KS; PHILADELPHIA, PA; PORTLAND, ME; PORTLAND, OR; RALEIGH, NC; ST. LOUIS, MO; SALT LAKE CITY, UT; SAN ANTONIO, TX; SAN BERNARDINO, CA; SAN FRANCISCO, CA; SAN JOSE, CA; SEATTLE, WA; TAMPA, FL; TOLEDO, OH; WAYNE, NJ; WASHINGTON, DC.



	Rate/Hr.		Rate/Hr.		Rate/Hr.
	through				
Title	FY 04		FY 05		FY 06
Principal	\$ 210.00		\$ 220.50		\$ 231.53
Sr. Project Manager	\$ 165.00		\$ 173.25		\$ 181.91
Department Manager	\$ 150.00		\$ 157.50		\$ 165.38
Project Manager II	\$ 140.00		\$ 147.00		\$ 154.35
Project Manager I	\$ 125.00		\$ 131.25		\$ 137.81
Sr Proj Eng/Sr Squad Ldr	\$ 115.00		\$ 120.75		\$ 126.79
Engineer III	\$ 100.00		\$ 105.00		\$ 110.25
Engineer II	\$ 85.00		\$ 89.25		\$ 93.71
Engineer I	\$ 75.00		\$ 78.75		\$ 82.69
Traffic Engineer III	\$ 115.00		\$ 120.75		\$ 126.79
Traffic Engineer II	\$ 95.00		\$ 99.75		\$ 104.74
Traffic Engineer I	\$ 80.00		\$ 84.00		\$ 88.20
Transportation Planner	\$ 72.00		\$ 75.60		\$ 79.38
Construction Services Project Manager	\$ 150.00		\$ 157.50		\$ 165.38
Construction Manager	\$ 115.00		\$ 120.75		\$ 126.79
Senior Construction Inspector	\$ 95.00		\$ 99.75		\$ 104.74
Construction Inspector II	\$ 75.00		\$ 78.75		\$ 82.69
Construction Inspector I	\$ 60.00		\$ 63.00		\$ 66.15
Staff Spec/Tech V	\$ 95.00		\$ 99.75		\$ 104.74
Desktop/Network Analyst 2	\$ 78.00		\$ 81.90		\$ 86.00
Office Administrator	\$ 69.00		\$ 72.45		\$ 76.07
Project Administrator	\$ 66.00		\$ 69.30		\$ 72.77
Receptnist/Switchbrd Optr	\$ 45.00		\$ 47.25		\$ 49.61
Public Involvement Mgr	\$ 84.00		\$ 88.20		\$ 92.61
Sr Public Involvement Rep	\$ 84.00		\$ 88.20		\$ 92.61
Sr Graphic Designer	\$ 72.00		\$ 75.60		\$ 79.38
Public Involvement Rep	\$ 60.00		\$ 63.00		\$ 66.15
Technology Director	\$ 150.00		\$ 157.50		\$ 165.38
Sr Multimedia Comm Dev	\$ 135.00		\$ 141.75		\$ 148.84
3D Visualization Specialist	\$ 72.00		\$ 75.60		\$ 79.38
Senior 3D Visualization Specialist	\$ 130.00		\$ 136.50		\$ 143.33
3D Visualization Manager	\$ 165.00		\$ 173.25		\$ 181.91
Senior GIS Application Developer	\$ 105.00		\$ 110.25		\$ 115.76
Senior GIS Analyst	\$ 90.00		\$ 94.50		\$ 99.23
Junior GIS Analyst	\$ 60.00		\$ 63.00		\$ 66.15
Network Analyst	\$ 95.00		\$ 99.75		\$ 104.74
GIS Analyst	\$ 60.00		\$ 63.00		\$ 66.15
Senior Web Application Developer	\$ 105.00		\$ 110.25		\$ 115.76
Web Designer	\$ 60.00		\$ 63.00		\$ 66.15
Senior Architect	\$ 145.00		\$ 152.25		\$ 159.86
Architect IV	\$ 120.00		\$ 126.00		\$ 132.30
Architect III	\$ 90.00		\$ 94.50		\$ 99.23
Architect II	\$ 75.00		\$ 78.75		\$ 82.69
Architect I	\$ 65.00		\$ 68.25		\$ 71.66
Senior Urban Designer	\$ 175.00		\$ 183.75		\$ 192.94
Urban Designer III	\$ 130.00		\$ 136.50		\$ 143.33
Urban Designer II	\$ 100.00		\$ 105.00		\$ 110.25
Urban Designer I	\$ 75.00		\$ 78.75		\$ 82.69
Senior Landscape Architect	\$ 160.00		\$ 168.00		\$ 176.40
Landscape Architect III	\$ 125.00		\$ 131.25		\$ 137.81
Landscape Architect II	\$ 85.00		\$ 89.25		\$ 93.71
Landscape Architect I	\$ 65.00		\$ 68.25		\$ 71.66
Senior Biologist	\$ 125.00		\$ 131.25		\$ 137.81
Biologist	\$ 95.00		\$ 99.75		\$ 104.74
Senior Environmental Planner	\$ 165.00		\$ 173.25		\$ 181.91
Environmental Planner IV	\$ 140.00		\$ 147.00		\$ 154.35
Environmental Planner III	\$ 120.00		\$ 126.00		\$ 132.30
Environmental Planner II	\$ 100.00		\$ 105.00		\$ 110.25
Environmental Specialist	\$ 80.00		\$ 84.00		\$ 88.20

All reimbursable and other purchased services to be billed at actual cost plus fifteen percent (15%) if under \$500 and at actual cost plus ten percent (10%) if \$500 or greater.

MAESTAS & BAILEY, INC.

Consulting Engineers

Civil • Drainage • Construction Management

Schedule of Hourly Rates

Classification	Hourly Rates FY 04	Hourly Rate X Multiplier	FY 05 C.O.L. 5%	FY 06 C.O.L. 5%
Principal	\$40.37	\$121.11	\$127.17	\$133.52
Project Engineer	\$40.37	\$121.11	\$127.17	\$133.52
Cadd Tech 1	\$12.50	\$37.50	\$39.38	\$41.34
Cadd Tech 2	\$13.00	\$39.00	\$40.95	\$43.00
Cadd Tech 3	\$14.25	\$42.75	\$44.89	\$47.13
Clerical	\$10.50	\$31.50	\$33.08	\$34.73

All purchased or contracted services will be up to \$500 will be charged at cost plus 15%.
All purchased or contracted services over \$500 will be charged at cost plus 10%.

8/4/2004
Hourly Rates.xls



Architects
Interior Designers
Landscape Architects

COMPENSATION SCHEDULE FOR SERVICES
City of San Antonio - Sidewalks

Classification	Rate Per Hour FY 2004	Rate Per Hour FY 2005	Rate Per Hour FY 2006
Principal I	\$140.00	\$147.00	\$154.35
Principal II	\$150.00	\$157.50	\$165.38
Architect I	\$85.00	\$89.25	\$93.72
Architect II	\$105.00	\$110.25	\$115.77
Architect III	\$125.00	\$131.25	\$137.82
Landscape Design I	\$60.00	\$63.00	\$66.15
Landscape Design II	\$100.00	\$105.00	\$110.25
Interior Design	\$65.00	\$68.25	\$71.67
Senior Staff I	\$100.00	\$105.00	\$110.25
Senior Staff II	\$120.00	\$126.00	\$132.30
Technical Support Staff I	\$55.00	\$57.75	\$60.64
Technical Support Staff II	\$70.00	\$73.50	\$77.18
Technical Support Staff III	\$85.00	\$89.25	\$93.72
Administration I	\$65.00	\$68.25	\$71.67
Administration II	\$80.00	\$84.00	\$88.20

Reimbursable expenses, such as reproduction of documents (exclusive of interoffice and inter-disciplinary coordination prints), auto travel mileage, delivery charges, long distance communication, freight, and expenses incurred in travel and lodging will be billed monthly at 1.15 times our cost for total expenses up to \$500.00 and at 1.10 times our cost for total expenses greater than \$500.00. All reimbursable expenses will be in addition to the above compensation.



5508 West Highway 290, Building B, Austin, Texas 78735
 Ofc 512.447.0575 Fax 512.326.3029
 sam@samincaus.com www.samincaus.com

Surveying and Mapping Inc.
AERIAL MAPPING & GIS SERVICES HOURLY RATE SCHEDULE
Effective Period – 7/2004 through 9/2007

DIGITAL MAPPING	FY04 7/2004-9/2005	FY05 10/2005-9/2006	FY06 10/2007-9/2007
Project Manager	\$99.00	\$103.95	\$109.15
Photogrammetrist	\$83.50	\$87.68	\$92.06
Aerial Triangulation Specialist	\$80.50	\$84.53	\$88.75
Digital Ortho Specialist	\$76.00	\$79.80	\$83.79
Compilation Specialist	\$76.00	\$79.80	\$83.79
GIS Technician	\$73.50	\$77.18	\$81.03

Travel & Subsistence:

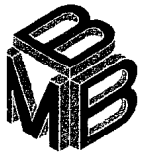
All travel and subsistence expenses are invoiced at actual cost plus 10% handling. Cost of mileage on company-owned vehicles is computed at the current I.R.S. mileage allowance. Cost for company-owned four-wheel drive vehicles is computed at the current I.R.S. mileage allowance plus \$30.00 per day.

Purchased Services:

All purchased services are invoiced at actual cost plus fifteen percent (15%) handling if under \$500, ten percent (10%) if over \$500. These include but are not limited to reproduction, computer time, long distance telephone, consultants, subcontract services, rented or leased equipment, expendable supplies, and project required special supplies.

Terms:

The Client shall promptly review invoice statements and notify SAM, Inc. of any objection thereto; absent such objection in writing within fifteen (15) days from the date of invoice, the invoice shall be deemed proper and acceptable. Invoices are submitted monthly for all services rendered and are payable upon receipt. Late payments will incur a late charge of one and one-half percent (1 1/2%) per month from the original date of invoice. SAM, Inc. reserves the right to stop work should invoices not be paid within the stated terms.



BAIN MEDINA BAIN
ENGINEERS & SURVEYORS

7073 SAN PEDRO
SAN ANTONIO, TEXAS 78216
210-494-7223
FAX 210-490-5120
WWW.BMBI.COM

CITYWIDE SIDEWALK AND STREET IMPROVEMENTS PROJECT

SURVEYING

FEE SCHEDULE

Bain Medina Bain, Inc.

August 3, 2004

FY 2004

FY 2005

FY 2006

October 1, 2005 October 1, 2006

Job Classification	Contract Rate	Contract Rate	Contract Rate
Principal	\$130.00	\$136.50	\$143.33
RPLS I	\$115.00	\$120.75	\$126.79
RPLS II	\$90.00	\$94.50	\$99.23
Survey Technician	\$70.00	\$73.50	\$77.18
CADD Technician I	\$75.00	\$78.75	\$82.69
CADD Technician II	\$55.00	\$57.75	\$60.64
Abstractor	\$60.00	\$63.00	\$66.15
Drafting Technician	\$45.00	\$47.25	\$49.61
Administrative Assistant	\$50.00	\$52.50	\$55.13
Clerical	\$45.00	\$47.25	\$49.61
SURVEY CREW			
Four Person	\$145.00	\$152.25	\$159.86
Three Person	\$125.00	\$131.25	\$137.81
Two Person	\$100.00	\$105.00	\$110.25
GPS Receiver (each)	\$30.00	\$31.50	\$33.08
DIRECT COSTS			
Plotting			
Bond (per sheet)	\$6.00	\$6.60	\$7.26
Vellum (per sheet)	\$9.00	\$9.90	\$10.89
Mylar (per sheet)	\$21.00	\$23.10	\$25.41
Printing			
24" x 36" (per sheet)	\$0.60	\$0.66	\$0.73
11" x 17" (per sheet)	\$0.30	\$0.33	\$0.36
8.5" x 11" (per sheet)	\$0.10	\$0.11	\$0.12
8.5" x 14" (per sheet)	\$0.15	\$0.17	\$0.18
GBC Type Binding (per book)	\$4.00	\$4.40	\$4.84

PURCHASED SERVICES

All purchased services are billed at actual cost plus 15% up to \$500 and 10% for over \$500. These services include, but are not limited to, out of house reproduction, approved subcontract services, deliveries and special supplies.



STEITLE TRAFFIC ENGINEERING, INC.

FEE SCHEDULE

	<u>Rate</u> <u>Per Hour</u>
Principal, Senior Engineer, Project Engineer . . .	\$ 95.00
Engineer in Training, Traffic Technician	65.00
CADD Operator	45.00
Secretarial, Clerical	35.00



ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing

Geotechnical Services

Unit Fee Schedule

	FY04	FY05	FY06
<u>Project Preparation and Travel Expenses</u>	<u>Unit Price</u>	<u>Unit Price</u>	<u>Unit Price</u>
In Town Mobilization - Personnel & Equip-Per Day	\$250.00	\$262.50	\$275.63
Out of Town Mobilization - Personnel & Equip-Per Mile	\$3.50	\$3.68	\$3.86
Boring Layout, per hour	\$50.00	\$52.50	\$55.13
Per Diem Charge - Per Person Day	\$90.00	\$94.50	\$99.23
Site Clearing at Cost + 15%			
 <u>Field Testing</u>			
Soil Drilling and Sampling Up to 40 Feet - Per Foot	\$15.00	\$15.75	\$16.54
Soil Drilling and Sampling 40 to 60 Feet - Per Foot	\$16.00	\$16.80	\$17.64
Shelby Tube Sample - Each	\$8.00	\$8.40	\$8.82
Interior Soil Boring Up to 10 Feet - Each	\$480.00	\$504.00	\$529.20
Rock Core Sampling - Per Foot Up to 40 Feet Deep	\$30.00	\$31.50	\$33.08
Rock Core Sampling - Per Foot From 40 to 100 Feet	\$34.00	\$35.70	\$37.49
Rock Core Setup Charge	\$200.00	\$210.00	\$220.50
Installation of Observation Well	Per Request	Per Request	Per Request
Patch Holes - Each	\$100.00	\$105.00	\$110.25
Grout Boring Hole - Per Foot	\$7.50	\$7.88	\$8.27
Standard Penetration Test - Each	\$10.00	\$10.50	\$11.03
 <u>Laboratory Testing</u>			
Atterberg Limits Determination	\$55.00	\$57.75	\$60.64
Bearing Ratio Test	\$400.00	\$420.00	\$441.00
Hydrometer Analysis	\$90.00	\$94.50	\$99.23
Grain Size Analysis Mechanical	\$55.00	\$57.75	\$60.64
Hand Penetrometer Test	\$6.00	\$6.30	\$3.62
Material Finer than No. 200 Sieve	\$35.00	\$36.75	\$38.59
Moisture Content Test & Visual Classification	\$14.00	\$14.70	\$15.44
Moisture Density Relationship	\$165.00	\$173.25	\$181.91
Percent Swell - Each	\$110.00	\$115.50	\$121.28
Unconfined Compressive Strength - Each	\$37.00	\$38.85	\$70.76
Unit Dry Density	\$19.00	\$19.95	\$20.95
 <u>Engineering and Technical Services</u>			
Principal Engineer - Per Hour	\$150.00	\$157.50	\$165.38
Senior Project Engineer - Per Hour	\$100.00	\$105.00	\$110.25
Engineer-In-Training- Per Hour	\$60.00	\$63.00	\$66.15
Senior Engineering Geologist - Per Hour	\$60.00	\$63.00	\$66.15
Senior Engineering Technician	\$40.00	\$42.00	\$44.10
Secretarial Services - Per Hour	\$35.00	\$36.75	\$38.59

Other Services Quoted Upon Request

Note: All other purchased services or contracted services will be charged at 15% for anything under \$500 and at 10% for anything of \$500 or greater.

762 Wilson
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Houston, Texas 77032
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ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing

Construction Materials Services Unit Fee Schedule

	FY04 Unit Price	FY05 Unit Price	FY06 Unit Price
Field Services			
1.1 Concrete Placement Observation	\$34.00/hr	\$35.70/hr	\$37.49/hr
1.2 Soil Technician	\$34.00/hr	\$35.70/hr	\$37.49/hr
1.2.1 Soil Density Test	\$16.00/ea	\$16.80/ea	\$17.64/ea
1.2 Reinforcing Steel Observation	\$38.00/hr	\$39.90/hr	\$41.90/hr
1.3 Drilled Pier Observation	\$38.00/hr	\$39.90/hr	\$41.90/hr
1.4 Asphaltic Concrete Observation	\$38.00/hr	\$39.90/hr	\$41.90/hr
1.5 Structural Steel Observation (CWI)	\$65.00/hr	\$68.25/hr	\$71.66/hr
1.6 Vehicle Travel Charges (in-town)	\$15.00/per trip	\$15.75/per trip	\$16.54/per trip
1.7 Vehicle Travel Charges (out-of-town)	\$0.50/mile	\$0.53/mile	\$0.55/mile
1.8 Sample Pick-Up	\$34.00/hr	\$35.70/hr	\$37.49/hr
1.9 Per Diem	\$90.00/day	\$94.50/day	\$99.23/day
Laboratory Testing-Soil			
2.1 Moisture Content Test and Visual Classification	\$14.00/ea	\$14.70/ea	\$15.44/ea
2.2 Atterberg Limits	\$58.00/ea	\$60.90/ea	\$63.95/ea
2.3 Sieve Analysis (wet sieve)	\$60.00/ea	\$63.00/ea	\$66.15/ea
2.4 Percent Passing No. 200 Sieve	\$30.00/ea	\$31.50/ea	\$33.08/ea
2.5 Moisture Density Relationship	\$175.00/ea	\$183.75/ea	\$192.94/ea
2.6 Percent Free Swell Test	\$110.00/ea	\$115.50/ea	\$121.30/ea
Laboratory Testing-Concrete and Aggregate			
3.1 Aggregate Sieve Analysis	\$60.00/ea	\$63.00/ea	\$66.15/ea
3.2 Specific Gravity of Aggregate	\$32.00/ea	\$33.60/ea	\$35.28/ea
3.3 Absorption of Aggregate	\$27.00/ea	\$28.35/ea	\$29.77/ea
3.4 Unit Weight of Aggregate	\$36.00/ea	\$37.80/ea	\$39.69/ea
3.5 Concrete Compressive Test (6" x 12" Cylinders)	\$15.00/ea	\$15.75/ea	\$16.54/ea
3.6 Contractor Made Concrete Compressive Test (6" x 12" Cylinders, minimum of 3)	\$22.00/ea	\$23.10/ea	\$24.26/ea
3.7 Beam Flexural Strength	\$29.00/ea	\$30.45/ea	\$31.97/ea
Laboratory Testing-Asphalt			
4.1 Mix Design (Hveem or Marshall Method)	On Request	On Request	On Request
4.2 Molding Test Specimens/Lab Densities (3 per set)	\$130.00/set	\$136.50/set	\$143.33/set
4.3 Determine Hveem or Marshall Stability (3 per set)	\$68.00/set	\$71.40/set	\$74.97/set
4.4 Determine Maximum Theoretical Density	\$68.00/ea	\$71.40/ea	\$74.97/ea
4.5 Extraction (percent of bitumen and aggregate gradation)	\$129.00/ea	\$135.45/ea	\$142.22/ea
4.6 Laboratory Density of Field Cut Specimen	\$27.00/ea	\$28.35/ea	\$29.77/ea
Consulting Services			
5.1 Principal Engineer	\$135.00/hr	\$141.75/hr	\$148.84/hr
5.2 Senior Geotechnical Engineer	\$90.00/hr	\$94.50/hr	\$99.23/hr
5.3 Senior Geologist	\$65.00/hr	\$68.25/hr	\$71.66/hr
5.4 Project Manager	\$65.00/hr	\$68.25/hr	\$71.66/hr
5.5 Administrative Processing	\$40.00/hr	\$42.00/hr	\$44.10/hr
5.6 Report Preparation and Review	\$35.00/hr	\$36.75/hr	\$38.59/hr

Rates for other services quoted on request

Notes:

Minimum call-out charge for technician and equipment is 3 hours. Minimum call-out charge for sample pickup is 2 hours. Out-of-town vehicle charges applicable outside of Bexar County. Charges are accrued portal to portal from laboratory. Overtime rates of 1.4 times hourly rated noted are applicable to time worked in excess of 8 hours per day, Monday through Friday, hours worked before 6 a.m. or after 6:00 p.m., and all hours worked on Saturdays, Sundays, and holidays. All other purchased services or contracted services will be charged at 15% for anything under \$500 and at 10% for anything of \$500 or greater.

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ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing
Environmental Services

Unit Fee Schedule

<u>Personnel Rates</u>	<u>FY04 Unit Price</u>	<u>FY05 Unit Price</u>	<u>FY06 Unit Price</u>
Asbestos/Lead Inspector - per hour	\$65.00	\$68.25	\$71.66
Asbestos Consultant/Lead Risk Assessor – per hour	\$75.00	\$78.75	\$82.68
Air Monitoring – per 8-hour day	\$350.00	\$367.50	\$385.88
(Includes up to 5 PCM cassettes/day)	\$65.00	\$68.25	\$71.66
Air Monitoring Overtime – per hour	\$250.00	\$262.50	\$275.63
Asbestos Abatement Work Plan lump sum	\$75.00	\$78.75	\$82.69
TDH Notification Preparation lump sum	\$45.00	\$47.25	\$49.61
Environmental Technician – per hour	\$75.00	\$78.75	\$82.69
Field Geologist – per hour	\$80.00	\$84.00	\$88.20
Senior Environmental Project Manager – per hour	\$90.00	\$94.50	\$99.23
Per Diem – per day	\$0.51	\$0.54	\$0.56
Travel – per mile			

Asbestos and Lead Analysis

Bulk Samples (PLM) – per sample *	\$15.00	\$15.75	\$16.54
Bulk Samples (PLM) – per sample **	\$20.00	\$21.00	\$22.05
Bulk Samples (PLM) – per sample ***	\$25.00	\$26.25	\$27.56
PCM Samples – per sample	\$5.00	\$5.25	\$5.51
Bulk Samples, Point Count – per sample *	\$35.00	\$36.75	\$38.59
TEM – per sample (24 hour) ***	\$100.00	\$105.00	\$110.25
Lead Paint Chips *	\$15.00	\$15.75	\$16.50
Lead Paint Chips ***	\$25.00	\$26.25	\$27.56
Lead Air Cassettes *	\$20.00	\$21.00	\$22.05
Lead Air Cassettes ***	\$30.00	\$31.50	\$33.08

* Based on a 5 - 7 day turnaround time from the laboratory.

** Based on a 3-day turnaround time from the laboratory.

*** Based on a 24-hour turnaround time from the laboratory

Mold Samples and Analysis

Tape Lift – per sample *****	\$100.00	\$105.00	\$110.25
Air-o-Cell – per sample *****	\$100.00	\$105.00	\$110.25
Tape Lift – per sample ****	\$120.00	\$126.00	\$132.30
Air-o-Cell – per sample ****	\$120.00	\$126.00	\$132.30

***** Based on a 8-hour turnaround time from the laboratory.

**** Based on a 4-hour turnaround time from the laboratory.

Note: All other purchased services or contracted services will be charged at 15% for anything under \$500 and at 10% for anything of \$500 or greater.

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ATTACHMENT "C"

(COMPENSATION)

On or after the last day of each month, CONSULTANT shall provide City a written invoice for the work performed by CONSULTANT, requested by City during that month, and for which the services have been reviewed and approved by the City. The invoice amount shall be based on the unit prices agreed as shown on Attachment "B". In no event shall the total dollar amount of all invoices during the term of this contract exceed four hundred thousand and no/100 dollars (**\$400,000**).

HNTB

	Rate/Hr.		Rate/Hr.		Rate/Hr.
	through				
Title	FY 04		FY 05		FY 06
Principal	\$ 210.00		\$ 220.50		\$ 231.53
Sr. Project Manager	\$ 165.00		\$ 173.25		\$ 181.91
Department Manager	\$ 150.00		\$ 157.50		\$ 165.38
Project Manager II	\$ 140.00		\$ 147.00		\$ 154.35
Project Manager I	\$ 125.00		\$ 131.25		\$ 137.81
Sr Proj Eng/Sr Squad Ldr	\$ 115.00		\$ 120.75		\$ 126.79
Engineer III	\$ 100.00		\$ 105.00		\$ 110.25
Engineer II	\$ 85.00		\$ 89.25		\$ 93.71
Engineer I	\$ 75.00		\$ 78.75		\$ 82.69
Traffic Engineer III	\$ 115.00		\$ 120.75		\$ 126.79
Traffic Engineer II	\$ 95.00		\$ 99.75		\$ 104.74
Traffic Engineer I	\$ 80.00		\$ 84.00		\$ 88.20
Transportation Planner	\$ 72.00		\$ 75.60		\$ 79.38
Construction Services Project Manager	\$ 150.00		\$ 157.50		\$ 165.38
Construction Manager	\$ 115.00		\$ 120.75		\$ 126.79
Senior Construction Inspector	\$ 95.00		\$ 99.75		\$ 104.74
Construction Inspector II	\$ 75.00		\$ 78.75		\$ 82.69
Construction Inspector I	\$ 60.00		\$ 63.00		\$ 66.15
CAD Technician IV	\$ 80.00		\$ 84.00		\$ 88.20
CAD Technician III	\$ 65.00		\$ 68.25		\$ 71.66
Office Administrator	\$ 69.00		\$ 72.45		\$ 76.07
Project Administrator	\$ 66.00		\$ 69.30		\$ 72.77
Receptnist/Switchbrd Optr	\$ 45.00		\$ 47.25		\$ 49.61
Public Involvement Mgr	\$ 84.00		\$ 88.20		\$ 92.61
Sr Public Involvement Rep	\$ 84.00		\$ 88.20		\$ 92.61
Sr Graphic Designer	\$ 72.00		\$ 75.60		\$ 79.38
Public Involvement Rep	\$ 60.00		\$ 63.00		\$ 66.15
Technology Director	\$ 150.00		\$ 157.50		\$ 165.38
Sr Multimedia Comm Dev	\$ 135.00		\$ 141.75		\$ 148.84
3D Visualization Specialist	\$ 72.00		\$ 75.60		\$ 79.38
Senior 3D Visualization Specialist	\$ 130.00		\$ 136.50		\$ 143.33
3D Visualization Manager	\$ 165.00		\$ 173.25		\$ 181.91
Senior GIS Application Developer	\$ 105.00		\$ 110.25		\$ 115.76
Senior GIS Analyst	\$ 90.00		\$ 94.50		\$ 99.23
Junior GIS Analyst	\$ 60.00		\$ 63.00		\$ 66.15
Network Analyst	\$ 95.00		\$ 99.75		\$ 104.74
GIS Analyst	\$ 60.00		\$ 63.00		\$ 66.15
Senior Web Application Developer	\$ 105.00		\$ 110.25		\$ 115.76
Web Designer	\$ 60.00		\$ 63.00		\$ 66.15
Senior Architect	\$ 145.00		\$ 152.25		\$ 159.86
Architect IV	\$ 120.00		\$ 126.00		\$ 132.30
Architect III	\$ 90.00		\$ 94.50		\$ 99.23
Architect II	\$ 75.00		\$ 78.75		\$ 82.69
Architect I	\$ 65.00		\$ 68.25		\$ 71.66
Senior Urban Designer	\$ 175.00		\$ 183.75		\$ 192.94
Urban Designer III	\$ 130.00		\$ 136.50		\$ 143.33
Urban Designer II	\$ 100.00		\$ 105.00		\$ 110.25
Urban Designer I	\$ 75.00		\$ 78.75		\$ 82.69
Senior Landscape Architect	\$ 160.00		\$ 168.00		\$ 176.40
Landscape Architect III	\$ 125.00		\$ 131.25		\$ 137.81
Landscape Architect II	\$ 85.00		\$ 89.25		\$ 93.71
Landscape Architect I	\$ 65.00		\$ 68.25		\$ 71.66
Senior Biologist	\$ 125.00		\$ 131.25		\$ 137.81
Biologist	\$ 95.00		\$ 99.75		\$ 104.74
Senior Environmental Planner	\$ 165.00		\$ 173.25		\$ 181.91
Environmental Planner IV	\$ 140.00		\$ 147.00		\$ 154.35
Environmental Planner III	\$ 120.00		\$ 126.00		\$ 132.30
Environmental Planner II	\$ 100.00		\$ 105.00		\$ 110.25
Environmental Specialist	\$ 80.00		\$ 84.00		\$ 88.20

All reimbursable and other purchased services to be billed at actual cost plus fifteen percent (15%) if under \$500 and at actual cost plus ten percent (10%) if \$500 or greater.

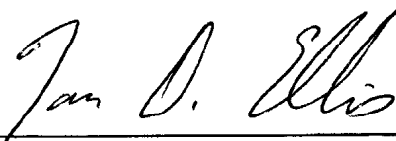
27.2 It is understood and agreed by the Parties hereto that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this AGREEMENT and that any such changes shall be automatically incorporated into this AGREEMENT without written amendment hereto, and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

EXECUTED ON THIS, THE _____ DAY OF _____, 2004.

CITY OF SAN ANTONIO

CONSULTANT

HNTB CORPORATION



CITY MANAGER

TOM D. ELLIS, P.E.,
PRINCIPAL IN CHARGE

CITY CLERK

DATE

APPROVED AS TO FORM:

CITY ATTORNEY

27.2 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 _____, 2004.

CITY OF SAN ANTONIO

CONSULTANT

HNTB CORPORATION

CITY MANAGER



TOM D. ELLIS, P.E.,
PRINCIPAL IN CHARGE

CITY CLERK

DATE

APPROVED AS TO FORM:

CITY ATTORNEY

**PROFESSIONAL SERVICES AGREEMENT
FOR
STAND-BY PROFESSIONAL ENGINEERING SERVICES
CITY-WIDE SIDEWALK, STREET AND
NEIGHBORHOOD IMPROVEMENT PROJECTS**

STATE OF TEXAS }

COUNTY OF BEXAR }

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 _____, 2004, and **Bain Medina Bain, Inc. by and through its President, Pamela Bain**, (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 professional 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

2.1 **CONSULTANT** shall complete the work described in the Contract Documents, being Exhibits "A" and "B" incorporated herein. The City guarantees neither a particular volume of work nor a minimum number of units of work. This is a stand-by agreement and specific requirements as to types, numbers, conditions, procedures and locations pertaining to the work or services provided hereunder will be established by the municipal project manager of the requesting City Department on a case by case basis for each job, request or Work Task provided by the City.

2.2 The term of this AGREEMENT shall commence 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 shall remain in force for the period of one year. As the enabling Ordinance provides, the City shall retain an option to renew this contract for two (2) additional one (1) year periods. The Director of Public Works shall have the authority to exercise such options at his discretion. In the event such options are exercised and any material provision of the AGREEMENT is modified, such amendment must be approved by the City Council.

2.3 The City may authorize additional calendar days or make adjustments to the Project Schedule and related deliverables, within the existing scope of this AGREEMENT, upon mutual AGREEMENT in writing, between the Director of the Department of Public Works, or his designee and **CONSULTANT**, as to the reasonableness of said additional time or adjustment.

2.4 Both the City and the **CONSULTANT** agree that additional services may be required for this project based upon the duration of construction activities, extended working hours by the **CONSULTANT**, and additional services required by the Owner and that this Contract may be amended to increase the scope of work to include said additional services upon mutual AGREEMENT, and written notification of approval and understanding, from the City and the **CONSULTANT** as to the reasonableness of the scope of work, period of service, and fees for such additional services. Such increase in scope of work and associated payment shall be subject to the approval of the City Council as evidenced by the passage of a City ordinance.

III. SCOPE OF SERVICES

3.1 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 the Scope of Services set forth herein and in the attached documents.

3.1.1 ATTACHMENT "A": (Scope of Services)

3.1.2 ATTACHMENT "B": (CONSULTANT's Fee Proposal/Price Schedule)

3.1.3 ATTACHMENT "C": (Compensation)

3.2 Where applicable, **CONSULTANT** shall be represented by a registered professional licensed to practice in the State of Texas at meetings of any official nature concerning the Project, including but not limited to scope meetings and review meetings.

3.2.1 The **CONSULTANT** under this contract shall provide services that constitute the practice of engineering and additional services within the meaning of Title 6 of the Texas Occupations Code.

3.2.2 Where applicable, all completed documents submitted for final approval or issuance of a permit shall bear the seal with signature and date adjacent thereto of a registered professional.

IV. COORDINATION WITH THE CITY

4.1 **CONSULTANT** shall hold periodic conferences with Director, so that the Project will have the full benefit of **CITY's** experience and knowledge of existing needs and be consistent with its current policies and standards. Conferences shall be scheduled as agreed to by Parties. **CITY** shall make available, for **CONSULTANT's** use, all existing data in its possession relative 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 In consideration of the professional services performed by **CONSULTANT**, as stated and contained herein, the City shall pay the **CONSULTANT** fees based on the Exhibits attached hereto and, in no event shall the total dollar amount of all invoices during the term of this AGREEMENT exceed four hundred thousand and no/100 dollars (**\$400,000**).

5.2 A negotiated fixed price, or lump-sum amount for each Work Task may be derived based on the scope of services, and will be based substantially on contractual pre-described and not to exceed pre-priced tasks and or hourly rates included in Exhibit "B".

5.3 Payment may also be made based solely on the units of work completed and approved by the Director, and the associated unit price for each Work Task as may be described in **CONSULTANT's** proposal/fee schedule (Exhibit "B").

5.4 Monthly payments for work performed in the various Work Tasks will be made to Consultant upon Consultant's furnishing itemized invoices reflecting past due amounts invoiced, current billing periods and amounts, and the balance of approved contract funds remaining, in a form acceptable to the Director and indicating the value of services performed to date.

5.5 Consultant must obtain the prior written approval of the City for any additional line items not described in the Contract Documents. Invoices for additional services which are not included in the Documents (not described in the Exhibits hereto), must be supported with letters from the Director approving said services as being appropriately within the scope of this AGREEMENT.

5.4 Payments to the consultant shall be in the amount shown by the monthly billings and other documentation submitted and shall be subject to the City's approval. All services shall be performed to the City's satisfaction, which satisfaction shall be judged by the Director in his or her sole discretion, and the City shall not be liable for any payment under this AGREEMENT for services which are unsatisfactory and which have not been previously approved by the Director. The final payment due hereunder will not be paid until all reports, data, and documents have been submitted, received, accepted and approved by the City.

VI. TERMINATION AND/OR SUSPENSION OF WORK

6.1 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.

6.2 Termination Without Cause.

6.2.1 This AGREEMENT may be terminated by either party upon written notice in accordance with Article VI. 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.

6.2.2 This AGREEMENT may be terminated by **CITY** prior to Director giving **CONSULTANT** written notice to proceed should the 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 VI, and shall be effective upon delivery by **CITY** in accordance with Article VI.

6.2.3 **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.

6.3 **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:

6.3.1 **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

6.3.2 **CONSULTANT** violates or fails to perform any covenant, provision, obligation, term or condition of a material nature contained in this AGREEMENT.

- 6.3.3 **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
- 6.3.4 **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
- 6.3.5 **CONSULTANT** fails to comply in any respect with the insurance requirements set forth in this AGREEMENT; or
- 6.3.6 **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.
- 6.4 **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.
- 6.5 **Effect of Termination.** 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 VI.
- 6.5.1 Regardless of how this AGREEMENT is terminated, and subject to 6.5.2, **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 documents, papers, records, charts, and reports prepared pursuant to this AGREEMENT and any other materials or information produced as a result of or pertaining to the services rendered by **CONSULTANT**, or provided to **CONSULTANT**. 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.
- 6.5.2 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.

6.5.3 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.

6.5.4 **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.

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

6.6.1 **CITY** may suspend this AGREEMENT by issuing a signed, written notice of suspension (citing this paragraph) as provided in Article VI, 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.

6.6.2 **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 VI, 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**.

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

6.7.1 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.

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

6.7.3 All completed or partially completed 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.

6.7.4 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 6.7.4 shall prevent **CONSULTANT** from submitting invoices for partial payments for work performed prior to the termination date as provided by Article V, Compensation.

- 6.7.5 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.
- 6.7.6 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.
- 6.7.7 **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.

VII. INSURANCE REQUIREMENTS

7.1 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 executed 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.

7.2 **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:

<u>TYPE</u>	<u>MINIMUM AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000/\$500,000/\$500,000
3. Commercial General (public) Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual liability	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per; General Aggregate limit of \$2,000,000 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.

7.3 **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 VII herein within 10 days of the requested change.

7.4 **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**.

7.5 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
Public Works Department – Capital Programs	Risk Management
P.O. Box 839966	111 Soledad, Suite 1000
San Antonio, Texas 78283-3966	San Antonio, Texas 78205

7.6 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 VI, Section 6.7.

7.7 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.

7.8 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.

VIII. INDEMNIFICATION

8.1 **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.**

8.2 **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.

8.3 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.

IX. ASSIGNMENT OF RIGHTS OR DUTIES

9.1 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.

9.2 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**.

9.3 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.

9.4 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 VI, 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.

9.5 **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 VI, Termination.

X. INDEPENDENT CONTRACTOR

10.1 **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**.

10.2 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**.

XI. 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.

XII. SBEDA REQUIREMENTS

12.1 **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").

12.2 **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.

12.3 **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. 96754, 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.

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

12.5 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.

12.6 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.

12.7 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.

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

XIII. 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
Public Works Department – City Architect's Office
Attn: Jesse Fernandez
P.O. Box 839966
San Antonio, Texas 78283-3966

If intended for CONSULTANT, to:

Bain Medina Bain, Inc.
7073 San Pedro
San Antonio, Texas 78216
Attn: Pamela Bain

XIV. INTEREST IN CITY CONTRACTS PROHIBITED

14.1 **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.

14.2 **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.

XV. 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.

XVI. 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.

XVII. 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.

XVIII. APPLICABLE LAW

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

XIX. 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.

XX. 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.

XXI. 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.

XXII. 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.

XXIII. NON-WAIVER OF PERFORMANCE

23.1 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.

23.2 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.

XXIV. 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.

XXV. 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.

XXVI. INCORPORATION OF ATTACHMENTS

26.1 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" (CONSULTANT's Fee Proposal/Price Schedule)

ATTACHMENT "C" (Compensation)

26.2 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.

XXVII. ENTIRE AGREEMENT

27.1 This AGREEMENT, together with its authorizing ordinance and Attachments, as listed in Article XXVI, 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.

EXECUTED ON THIS, THE _____ DAY OF _____, 2004.

BAIN MEDINA BAIN, INC.

PAMELA BAIN,
PRESIDENT

CITY CLERK _____ DATE _____

CITY ATTORNEY

ATTACHMENT "A"

(SCOPE OF SERVICES)

Scope of Work

1. The scope of services provided in a Work Task may include professional program management, design, and construction administration services in connection with sidewalk and street improvement projects that are similar in nature and located City-wide. These improvements may include the construction or reconstruction of sidewalks, ADA improvements, neighborhood traffic calming, drainage, streets, and other infrastructure improvements. Services may also include evaluation of neighborhood sidewalks and mobility and traffic concerns. Consultant may be called upon to map, with the use of the Geographic Information System (GIS), pedestrian mobility deficiencies to evaluate complaints, recommend design and to prioritize project implementation. Consultant may also be asked to integrate work product and to make improvements to the City's GIS Infrastructure Model.
2. The scope of work will be specifically identified in Work Tasks provided by the City and in the subsequent individually negotiated and City-accepted Consultant proposals. The negotiated amount for each specific scope of services may be derived as a fixed price, or lump-sum based substantially on contractual pre-described and not to exceed pre-priced tasks and or hourly rates included in Exhibit "B".
3. Payment may also be made based solely on the units of work completed and approved by the Director, and the associated unit price for each Work Task as may be described in Consultant's fee proposal/fee schedule (Exhibit "B").
4. The Consultant shall commence work on the project once it has been thoroughly briefed regarding the scope of the specific project and has been notified in writing to proceed with the Work.
5. The Consultant, in consideration for the compensation herein provided, shall render professional engineering consulting services necessary for the development of the Project to final completion.

ATTACHMENT “B”

(CONSULTANT'S FEE PROPOSAL/PRICE SCHEDULE)



BAIN MEDINA BAIN

ENGINEERS & SURVEYORS

7073 SAN PEDRO
SAN ANTONIO, TEXAS 78216
210-494-7223
FAX 210-490-5120
WWW.BMBI.COM

July 20, 2004
Revised August 4, 2004

David Matney, P.E.
Project Manager
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966

Re: Citywide Sidewalk & Street Improvement Project - COSA
BMB Project No. P-0768

Dear Mr. Matney:

Bain Medina Bain, Inc. (BMB) is pleased to submit our fee schedules to provide professional engineering and surveying services for the above referenced project.

Attached is the following:

- 1) BMB's Fee Schedule
- 2) URS Corporation Fee Schedule
- 3) Arias & Associates, Inc. Fee Schedule
- 4) Foster CM Group, Inc. Fee Schedule
- 5) Discretionary Contracts Disclosure

BMB is ready to begin as soon as we receive a work authorization. Please feel free to call if you have any questions or need further information.

Sincerely,

Carl Bain, P.E.
Vice President

CITYWIDE SIDEWALK AND STREET IMPROVEMENTS PROJECT**CIVIL ENGINEERING****FEE SCHEDULE****Bain Medina Bain, Inc.****August 4, 2004****FY 2005****FY 2006****FY 2007****October 1, 2005 October 1, 2006**

Job Classification	Contract Rate	Contract Rate	Contract Rate
Principal	\$130.00	\$136.50	\$143.33
Project Manager	\$115.00	\$120.75	\$126.79
Engineer I	\$100.00	\$105.00	\$110.25
Engineer II	\$90.00	\$94.50	\$99.23
Engineer Technician	\$85.00	\$89.25	\$93.71
Engineer-In-Training I	\$85.00	\$89.25	\$93.71
Engineer-In-Training II	\$75.00	\$78.75	\$82.69
CADD Technician I	\$75.00	\$78.75	\$82.69
CADD Technician II	\$55.00	\$57.75	\$60.64
Drafting Technician	\$45.00	\$47.25	\$49.61
Administrative Assistant	\$50.00	\$52.50	\$55.13
Clerical	\$45.00	\$47.25	\$49.61
Inspector with Vehicle	\$65.00	\$68.25	\$71.66
DIRECT COSTS			
Plotting			
Bond (per sheet)	\$6.00	\$6.60	\$7.26
Vellum (per sheet)	\$9.00	\$9.90	\$10.89
Mylar (per sheet)	\$21.00	\$23.10	\$25.41
Printing			
24" x 36" (per sheet)	\$0.60	\$0.66	\$0.73
11" x 17" (per sheet)	\$0.30	\$0.33	\$0.36
8.5" x 11" (per sheet)	\$0.10	\$0.11	\$0.12
8.5" x 14" (per sheet)	\$0.15	\$0.17	\$0.18
GBC Type Binding (per book)	\$4.00	\$4.40	\$4.84

PURCHASED SERVICES

All purchased services are billed at actual cost plus 15% for services up to \$500 and actual cost plus 10% for services greater than \$500. These services include, but are not limited to, out of house reproduction, approved subcontract services, deliveries and special supplies.

CITYWIDE SIDEWALK AND STREET IMPROVEMENTS PROJECT

SURVEYING

FEE SCHEDULE

Bain Medina Bain, Inc.

August 4, 2004

FY 2005

FY 2006

FY 2007

October 1, 2005 October 1, 2006

Job Classification	Contract Rate	Contract Rate	Contract Rate
Principal	\$130.00	\$136.50	\$143.33
RPLS I	\$115.00	\$120.75	\$126.79
RPLS II	\$90.00	\$94.50	\$99.23
Survey Technician	\$70.00	\$73.50	\$77.18
CADD Technician I	\$75.00	\$78.75	\$82.69
CADD Technician II	\$55.00	\$57.75	\$60.64
Abstractor	\$60.00	\$63.00	\$66.15
Drafting Technician	\$45.00	\$47.25	\$49.61
Administrative Assistant	\$50.00	\$52.50	\$55.13
Clerical	\$45.00	\$47.25	\$49.61
SURVEY CREW			
Four Person	\$145.00	\$152.25	\$159.86
Three Person	\$125.00	\$131.25	\$137.81
Two Person	\$100.00	\$105.00	\$110.25
GPS Receiver (each)	\$30.00	\$31.50	\$33.08
DIRECT COSTS			
Plotting			
Bond (per sheet)	\$6.00	\$6.60	\$7.26
Vellum (per sheet)	\$9.00	\$9.90	\$10.89
Mylar (per sheet)	\$21.00	\$23.10	\$25.41
Printing			
24" x 36" (per sheet)	\$0.60	\$0.66	\$0.73
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8.5" x 11" (per sheet)	\$0.10	\$0.11	\$0.12
8.5" x 14" (per sheet)	\$0.15	\$0.17	\$0.18
GBC Type Binding (per book)	\$4.00	\$4.40	\$4.84

PURCHASED SERVICES

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URS

August 4, 2004

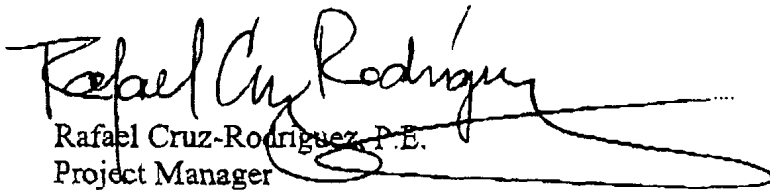
Mr. H. Carl Bain, P.E.
Project Manager
Bain Media Bain, Inc.
7073 San Pedro
San Antonio, Texas 78216

**RE: URS Billing Rates for Professional Engineering and Construction Administration
Services for the City of San Antonio Sidewalk and Street Improvements Projects**

Dear Carl:

As requested, I am enclosing an original billing rate schedule for the reference project. Please call me at 512-419-6441 if you need any additional information.

Sincerely,


Rafael Cruz-Rodriguez, P.E.
Project Manager

Enclosure

URS Corporation
P.O. Box 201088
Austin, TX 78720-1088
9400 Amberglen Boulevard
Austin, TX 78729
Tel: 512.454.4797



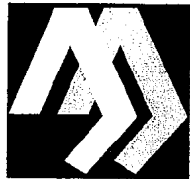
**CITYWIDE SIDEWALK AND STREET IMPROVEMENTS PROJECT
CIVIL ENGINEERING
FEE SCHEDULE
URS Corporation
4-Aug-04**

	FY 2004	FY 2005	FY 2006
Job Classification	Contract Rate	Contract Rate	Contract Rate
Principal	\$135.00	\$141.75	\$148.84
Project Manager	\$120.00	\$126.00	\$132.30
Project Engineer	\$105.00	\$110.25	\$115.76
Traffic Engineer	\$100.00	\$105.00	\$110.25
Environmental Engineer	\$85.00	\$89.25	\$93.71
Engineer Technician	\$87.50	\$91.88	\$96.47
Engineer-In-Training I	\$85.00	\$89.25	\$93.71
Engineer-In-Training II	\$75.00	\$78.75	\$82.69
CADD Technician I	\$75.00	\$78.75	\$82.69
CADD Technician II	\$65.50	\$68.78	\$72.21
Drafting Technician	\$47.00	\$49.35	\$51.82
GIS Specialist	\$76.00	\$79.80	\$83.79
Public Involvement Specialist	\$70.00	\$73.50	\$77.18
Planner	\$85.00	\$89.25	\$93.71
Administrative Assistant	\$55.00	\$57.75	\$60.64
Clerical	\$50.00	\$52.50	\$55.13
Direct Costs			
Mileage (per mile)	\$0.36	\$0.38	\$0.40
Plotting			
Bond (per sheet)	\$6.00	\$6.60	\$7.26
Vellum (per sheet)	\$9.00	\$9.90	\$10.89
Mylar (per sheet)	\$21.00	\$23.10	\$25.41
Printing			
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These services include, but are not limited to, out of house reproduction, approved subcontract services, deliveries, and special supplies.



ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing

July 16, 2004
A&A File No. 04SA-2247

Mr. Carl Bain, P.E.
Bain Medina Bain
7073 San Pedro
San Antonio, Texas 78216

Re: Proposal for Construction Materials Testing Services and Geotechnical Engineering Services
Citywide Sidewalk and Street Improvements
San Antonio, Texas

Dear Mr. Bain

Arias & Associates appreciates the opportunity to submit our proposal on the above-mentioned project. The attachment presents our unit fee schedule for providing Construction Materials Testing Services and Geotechnical Engineering Services.

Testing frequencies and observations will comply with your requests for service. Our technicians will immediately report deficiencies to your designated representative and we will assist in corrective measures. It will be our responsibility to observe, test and report our findings to you in a timely manner.

We propose that we conduct this work on a unit fee basis per the attached unit fee schedule in accordance with the attached General Conditions. **Arias & Associates** will begin work upon receipt of a signed copy of this proposal as signified below. We look forward to assisting you towards the successful completion of this project.

Sincerely,
Arias & Associates

Mark O'Connor, P.E.
Vice President - San Antonio Operations

Attachments: Unit Fee Schedules – 2
General Conditions

Agreed to this _____ day of _____, 2004

By: _____

Printed or Typed Name: _____

Title: _____

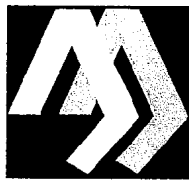
Company Name: _____

Phone No.: _____

762 Wilson
Eagle Pass, Texas 78852
(830) 757-8891
(830) 757-8899 Fax

10821 Gulfdale
San Antonio, Texas 78216
(210) 308-5884
(210) 308-5886 Fax

1030 Logandale
Houston, Texas 77032
(281) 227-2243
(281) 227-7088 Fax



ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing

July 16, 2004
A&A File No. 04SA-2247

Mr. Carl Bain, P.E.
Bain Medina Bain
7073 San Pedro
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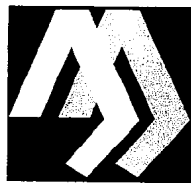
Company Name: _____

Phone No.: _____

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ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing

Geotechnical Services Unit Fee Schedule

	FY04	FY05	FY06
<u>Project Preparation and Travel Expenses</u>	<u>Unit Price</u>	<u>Unit Price</u>	<u>Unit Price</u>
In Town Mobilization - Personnel & Equip-Per Day	\$250.00	\$262.50	\$275.63
Out of Town Mobilization - Personnel & Equip-Per Mile	\$3.50	\$3.68	\$3.86
Boring Layout, per hour	\$50.00	\$52.50	\$55.13
Per Diem Charge - Per Person Day	\$90.00	\$94.50	\$99.23
Site Clearing at Cost + 15%			
<u>Field Testing</u>			
Soil Drilling and Sampling Up to 40 Feet - Per Foot	\$15.00	\$15.75	\$16.54
Soil Drilling and Sampling 40 to 60 Feet - Per Foot	\$16.00	\$16.80	\$17.64
Shelby Tube Sample - Each	\$8.00	\$8.40	\$8.82
Interior Soil Boring Up to 10 Feet - Each	\$480.00	\$504.00	\$529.20
Rock Core Sampling - Per Foot Up to 40 Feet Deep	\$30.00	\$31.50	\$33.08
Rock Core Sampling - Per Foot From 40 to 100 Feet	\$34.00	\$35.70	\$37.49
Rock Core Setup Charge	\$200.00	\$210.00	\$220.50
Installation of Observation Well	Per Request	Per Request	Per Request
Patch Holes - Each	\$100.00	\$105.00	\$110.25
Grout Boring Hole - Per Foot	\$7.50	\$7.88	\$8.27
Standard Penetration Test - Each	\$10.00	\$10.50	\$11.03
<u>Laboratory Testing</u>			
Atterberg Limits Determination	\$55.00	\$57.75	\$60.64
Bearing Ratio Test	\$400.00	\$420.00	\$441.00
Hydrometer Analysis	\$90.00	\$94.50	\$99.23
Grain Size Analysis Mechanical	\$55.00	\$57.75	\$60.64
Hand Penetrometer Test	\$6.00	\$6.30	\$3.62
Material Finer than No. 200 Sieve	\$35.00	\$36.75	\$38.59
Moisture Content Test & Visual Classification	\$14.00	\$14.70	\$15.44
Moisture Density Relationship	\$165.00	\$173.25	\$181.91
Percent Swell - Each	\$110.00	\$115.50	\$121.28
Unconfined Compressive Strength - Each	\$37.00	\$38.85	\$70.76
Unit Dry Density	\$19.00	\$19.95	\$20.95
<u>Engineering and Technical Services</u>			
Principal Engineer - Per Hour	\$150.00	\$157.50	\$165.38
Senior Project Engineer - Per Hour	\$100.00	\$105.00	\$110.25
Engineer-In-Training- Per Hour	\$60.00	\$63.00	\$66.15
Senior Engineering Geologist - Per Hour	\$60.00	\$63.00	\$66.15
Senior Engineering Technician	\$40.00	\$42.00	\$44.10
Secretarial Services - Per Hour	\$35.00	\$36.75	\$38.59

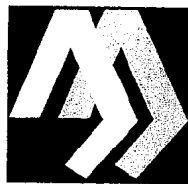
Other Services Quoted Upon Request

Note: All other purchased services or contracted services will be charged at 15% for anything under \$500 and at 10% for anything of \$500 or greater.

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Construction Materials Services Unit Fee Schedule

	FY04 Unit Price	FY05 Unit Price	FY06 Unit Price
Field Services			
1.1 Concrete Placement Observation	\$34.00/hr	\$35.70/hr	\$37.49/hr
1.2 Soil Technician	\$34.00/hr	\$35.70/hr	\$37.49/hr
1.2.1 Soil Density Test	\$16.00/ea	\$16.80/ea	\$17.64/ea
1.2 Reinforcing Steel Observation	\$38.00/hr	\$39.90/hr	\$41.90/hr
1.3 Drilled Pier Observation	\$38.00/hr	\$39.90/hr	\$41.90/hr
1.4 Asphaltic Concrete Observation	\$38.00/hr	\$39.90/hr	\$41.90/hr
1.5 Structural Steel Observation (CWI)	\$65.00/hr	\$68.25/hr	\$71.66/hr
1.6 Vehicle Travel Charges (in-town)	\$15.00/per trip	\$15.75/per trip	\$16.54/per trip
1.7 Vehicle Travel Charges (out-of-town)	\$0.50/mile	\$0.53/mile	\$0.55/mile
1.8 Sample Pick-Up	\$34.00/hr	\$35.70/hr	\$37.49/hr
1.9 Per Diem	\$90.00/day	\$94.50/day	\$99.23/day
Laboratory Testing-Soil			
2.1 Moisture Content Test and Visual Classification	\$14.00/ea	\$14.70/ea	\$15.44/ea
2.2 Atterberg Limits	\$58.00/ea	\$60.90/ea	\$63.95/ea
2.3 Sieve Analysis (wet sieve)	\$60.00/ea	\$63.00/ea	\$66.15/ea
2.4 Percent Passing No. 200 Sieve	\$30.00/ea	\$31.50/ea	\$33.08/ea
2.5 Moisture Density Relationship	\$175.00/ea	\$183.75/ea	\$192.94/ea
2.6 Percent Free Swell Test	\$110.00/ea	\$115.50/ea	\$121.30/ea
Laboratory Testing-Concrete and Aggregate			
3.1 Aggregate Sieve Analysis	\$60.00/ea	\$63.00/ea	\$66.15/ea
3.2 Specific Gravity of Aggregate	\$32.00/ea	\$33.60/ea	\$35.28/ea
3.3 Absorption of Aggregate	\$27.00/ea	\$28.35/ea	\$29.77/ea
3.4 Unit Weight of Aggregate	\$36.00/ea	\$37.80/ea	\$39.69/ea
3.5 Concrete Compressive Test (6" x 12" Cylinders)	\$15.00/ea	\$15.75/ea	\$16.54/ea
3.6 Contractor Made Concrete Compressive Test (6" x 12" Cylinders, minimum of 3)	\$22.00/ea	\$23.10/ea	\$24.26/ea
3.7 Beam Flexural Strength	\$29.00/ea	\$30.45/ea	\$31.97/ea
Laboratory Testing-Asphalt			
4.1 Mix Design (Hveem or Marshall Method)	On Request	On Request	On Request
4.2 Molding Test Specimens/Lab Densities (3 per set)	\$130.00/set	\$136.50/set	\$143.33/set
4.3 Determine Hveem or Marshall Stability (3 per set)	\$68.00/set	\$71.40/set	\$74.97/set
4.4 Determine Maximum Theoretical Density	\$68.00/ea	\$71.40/ea	\$74.97/ea
4.5 Extraction (percent of bitumen and aggregate gradation)	\$129.00/ea	\$135.45/ea	\$142.22/ea
4.6 Laboratory Density of Field Cut Specimen	\$27.00/ea	\$28.35/ea	\$29.77/ea
Consulting Services			
5.1 Principal Engineer	\$135.00/hr	\$141.75/hr	\$148.84/hr
5.2 Senior Geotechnical Engineer	\$90.00/hr	\$94.50/hr	\$99.23/hr
5.3 Senior Geologist	\$65.00/hr	\$68.25/hr	\$71.66/hr
5.4 Project Manager	\$65.00/hr	\$68.25/hr	\$71.66/hr
5.5 Administrative Processing	\$40.00/hr	\$42.00/hr	\$44.10/hr
5.6 Report Preparation and Review	\$35.00/hr	\$36.75/hr	\$38.59/hr

Rates for other services quoted on request

Notes:

Minimum call-out charge for technician and equipment is 3 hours. Minimum call-out charge for sample pickup is 2 hours. Out-of-town vehicle charges applicable outside of Bexar County. Charges are accrued portal to portal from laboratory. Overtime rates of 1.4 times hourly rated noted are applicable to time worked in excess of 8 hours per day, Monday through Friday, hours worked before 6 a.m. or after 6:00 p.m., and all hours worked on Saturdays, Sundays, and holidays. All other purchased services or contracted services will be charged at 15% for anything under \$500 and at 10% for anything of \$500 or greater.

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ARIAS & ASSOCIATES

Geotechnical • Environmental • Testing

Environmental Services

Unit Fee Schedule

Personnel Rates	FY04 Unit Price	FY05 Unit Price	FY06 Unit Price
Asbestos/Lead Inspector - per hour	\$65.00	\$68.25	\$71.66
Asbestos Consultant/Lead Risk Assessor – per hour	\$75.00	\$78.75	\$82.68
Air Monitoring – per 8-hour day	\$350.00	\$367.50	\$385.88
(Includes up to 5 PCM cassettes/day)	\$65.00	\$68.25	\$71.66
Air Monitoring Overtime – per hour	\$250.00	\$262.50	\$275.63
Asbestos Abatement Work Plan lump sum	\$75.00	\$78.75	\$82.69
TDH Notification Preparation lump sum	\$45.00	\$47.25	\$49.61
Environmental Technician – per hour	\$75.00	\$78.75	\$82.69
Field Geologist – per hour	\$80.00	\$84.00	\$88.20
Senior Environmental Project Manager – per hour	\$90.00	\$94.50	\$99.23
Per Diem – per day	\$0.51	\$0.54	\$0.56
Travel – per mile			

Asbestos and Lead Analysis

Bulk Samples (PLM) – per sample *	\$15.00	\$15.75	\$16.54
Bulk Samples (PLM) – per sample **	\$20.00	\$21.00	\$22.05
Bulk Samples (PLM) – per sample ***	\$25.00	\$26.25	\$27.56
PCM Samples – per sample	\$5.00	\$5.25	\$5.51
Bulk Samples, Point Count – per sample *	\$35.00	\$36.75	\$38.59
TEM – per sample (24 hour) ***	\$100.00	\$105.00	\$110.25
Lead Paint Chips *	\$15.00	\$15.75	\$16.50
Lead Paint Chips ***	\$25.00	\$26.25	\$27.56
Lead Air Cassettes *	\$20.00	\$21.00	\$22.05
Lead Air Cassettes ***	\$30.00	\$31.50	\$33.08

* Based on a 5 - 7 day turnaround time from the laboratory.

** Based on a 3-day turnaround time from the laboratory.

*** Based on a 24-hour turnaround time from the laboratory

Mold Samples and Analysis

Tape Lift – per sample *****	\$100.00	\$105.00	\$110.25
Air-o-Cell – per sample *****	\$100.00	\$105.00	\$110.25
Tape Lift – per sample ****	\$120.00	\$126.00	\$132.30
Air-o-Cell – per sample ****	\$120.00	\$126.00	\$132.30

**** Based on a 8-hour turnaround time from the laboratory.

***** Based on a 4-hour turnaround time from the laboratory.

Note: All other purchased services or contracted services will be charged at 15% for anything under \$500 and at 10% for anything of \$500 or greater.

762 Wilson
Eagle Pass, Texas 78852
(830) 757-8891
(830) 757-8899 Fax

10821 Gulfdale
San Antonio, Texas 78216
(210) 308-5884
(210) 308-5886 Fax

1030 Logandale
Houston, Texas 77032
(281) 227-2243
(281) 227-7088 Fax

ARIAS & ASSOCIATES, INC.
GENERAL CONDITIONS
(Revised June 1, 2004)

1. Scope of Work. The scope of work is outlined in the Proposal, which constitutes the Agreement. "Work" means the specific analytical, testing or other service to be performed by ARIAS & ASSOCIATES INC, hereinafter referred to as A&A, as set forth in A&A's proposal, Client's acceptance thereof and these General Conditions. The verbal or written ordering of work of A&A shall constitute acceptance of the terms of ARIAS & ASSOCIATES INC'S proposal and these General Conditions, regardless of the terms of any subsequently issued document.
2. Parties. CLIENT is defined as the entity that authorizes performance of services as stated in the Proposal by A&A and accepts responsibility for payment as stated in these General Conditions. A&A is the Design Professional who will provide the proposed services to the CLIENT.
3. On-Site Responsibilities and Risks. Unless otherwise agreed, CLIENT will furnish right-of-entry and obtain permits as required for us to perform the fieldwork. A&A will take reasonable precautions to minimize damage to land and other property caused by our operations, but we have not included in our fee the cost of restoration of damage that may occur. If CLIENT desires us to restore the site to its former condition, we will undertake the repairs and add the cost to our fee.
4. Toxic and Hazardous Materials. CLIENT will provide us with all information within their possession or knowledge as to the potential occurrence of toxic or hazardous materials at the site being investigated. If toxic or hazardous materials are encountered though not anticipated as stated in our Proposal, we reserve the right to demobilize our field operations at CLIENT's expense. Remobilization may proceed following consultation with CLIENT's acceptance of proposed safety fee adjustments.
5. Utilities and Pipelines. While performing our fieldwork, we will take reasonable precautions to avoid damage to sub-surface structures, pipelines and utilities. CLIENT agrees to hold A&A and its officers, agents, employees and subcontractors harmless from all claims, suits, losses, costs and expenses including reasonable attorney's fees as a result of personal injury, death or property damage occurring with respect to the performance of our work and arising from subsurface conditions which are not called to our attention and correctly shown on plans furnished.
6. Representation. Services performed by A&A will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the geotechnical profession practicing under similar conditions. CLIENT acknowledges that conditions may vary from those encountered at the location where borings, surveys or explorations are made and that our data, interpretations and recommendations are based solely on the information available to us. We are not responsible for the interpretation by others of the information provided to our CLIENT.
7. Limitation of Liability. In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and A&A the risks have been allocated such that the CLIENT agrees that to the fullest extent permitted by law, the liability of A&A to the CLIENT, for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement for any cause or causes shall not exceed \$25,000 or the fee paid to A&A for this work, whichever is greater. Such causes include but are not limited to the firm's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
8. Invoices and Payment An invoice will be submitted bi-weekly or upon completion of our scope of our work. Terms -- Net 30 (1%, 10, Net 30). CLIENT agrees to pay a finance charge of 1% per month on past due accounts.
9. Construction Observation. A&A does not guarantee the performance of, and shall have no responsibility for, the act or omissions of any contractor, subcontractor, supplier, or any other entity furnishing materials or performing any work on the project. The CLIENT has not retained A&A to provide exhaustive or continuous project review and observation services.
10. Termination of Services. This Agreement may be terminated by the CLIENT or A&A upon 10 days prior written notice. In the event of termination, the CLIENT shall pay A&A for all services rendered to the date of termination, all reimbursable expenses and reimbursable termination expenses.
11. Changed Conditions. The CLIENT shall rely on A&A's judgment as to the continued adequacy of this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to A&A. Should A&A call for contract renegotiation, A&A shall identify the changed conditions necessitating renegotiation and the CLIENT shall promptly and in good faith enter into renegotiation of the Agreement. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.
12. Indemnification. The CLIENT agrees to indemnify and hold harmless A&A, its officers, employees and subconsultants against all damages, liabilities or costs including reasonable attorney's fees and defense costs, to the extent caused by the CLIENT'S negligent acts in connection with the project and the acts of its contractors, subcontractors or consultants or anyone for whom the CLIENT is legally liable.

FOSTERCMGROUP, Inc.
PROJECT/CONSTRUCTION MANAGEMENT

Mr. Carl Bain, P.E.
Vice President
Bain Medina Bain, Inc.
7073 San Pedro
San Antonio, Texas 78216

**Re: CSA Streets and Sidewalks /
Staff billable rates**

Dear Carl:

As requested, please find below our billable rate for the position that we have been tasked to provide on the above referenced project:

<u>Position</u>	<u>Rate:</u>
Project Controls / Scheduler	\$ 99.44/ hour

We propose Melvin Topp to fill the position of Project Controls / Scheduler. We look forward to working with the Bain Medina Bain team on this project as we await receipt of a contract. If you need any additional information, please advise.

Sincerely,



Paul W. Foster
President

Cc: file: 2004.11

ATTACHMENT "C"

(COMPENSATION)

On or after the last day of each month, CONSULTANT shall provide City a written invoice for the work performed by CONSULTANT, requested by City during that month, and for which the services have been reviewed and approved by the City. The invoice amount shall be based on the unit prices agreed as shown on Attachment "B". In no event shall the total dollar amount of all invoices during the term of this contract exceed four hundred thousand and no/100 dollars (\$400,000).

City of San Antonio
Discretionary Contracts Disclosure*

*For use of this form, see City of San Antonio Ethics Code, Part D, Section 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 91), (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:

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

Bain Medina Bain, 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;

Not Applicable

- (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

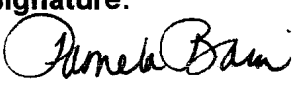
Political Contributions

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 or indirectly to any *current or former member* of City Council, and *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 entity 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:
David Carpenter	\$140.00	April 2001
CECPAC	\$360.00	March 2001
Friends of Ed Garza and Nelson Wolff	\$150.00/each	September and October 2002
Friends of Bonnie Conner, Robert Tejada, Carroll Schubert, Bobby Perez, Toni Moorehouse, Lyle Larson, David Carpenter, Julian Castro, Paul Elizondo and Enrique Barrera	\$50.00/each	July thru October 2002
Toni Moorehouse, Enrique Barrera and Carroll Schubert	\$70.00/each	May 2003
Ron Segovia Campaign, Joel Williams Campaign	\$70.00/each	July 2004

Disclosure 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 would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

Signature: 	Title: President Company: Bain Medina Bain, Inc.	Date: July 19, 2004

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.

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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:

None

(2) the identity of any **business entity**¹ that would be a party to the discretionary contract:

HNTB Corporation

and the name of:

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

Maestas & Bailey, Inc.	SAM, Inc.
Bain Medina Bain, Inc.	David Steitle, P.E.
Releer Vaughn & Koone, Inc	Eagle Drilling
Arias Associates, Inc.	Proforma Sweet Promotions

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;

HNTB Ltd. Is the parent company of HNTB Corporation
HNTB Corporation has a number of state specific subsidiaries, none of which are a party to this contract

(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.

None

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.

City of San Antonio

Discretionary Contracts Disclosure*

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Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.

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

None

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Maestas & Bailey, Inc.	SAM, Inc.
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None

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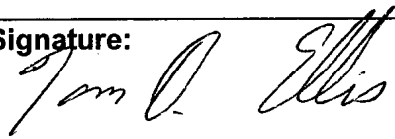
Political Contributions

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:
NONE		

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, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

NONE		
Signature:  Tomas D. Ellis, P.E.	Title: Vice President Company: HNTB Corporation	Date: August 20, 2004

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.