

**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 TO: Melissa Byrne Vossmer; Peter Zaroni, Milo Nitschke, Andrew Martin, Malcolm Matthews, Steven F. Hodges, and File

SUBJECT: Ordinance authorizing payment of legal fees incurred in land acquisition related to various capital projects

DATE: September 2, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes funds in the amount of \$8,372.17 payable to Davidson & Troilo, P.C., for legal services in connection with the Babcock Road/Leon Creek Improvements-Hausman to DeZavala project (\$224.97), Bitters Road – West Avenue to Heimer Metropolitan Planning Organization (MPO) project (\$284.60), Culebra/Loop 410 Detention Pond (\$6,817.42), and the Salado Creek Greenway (Hike & Bike Trail) Phase I project (\$442.58). These projects are located in various Council Districts and are funded from General Obligations of the City.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

The invoices for these legal services have been reviewed for accuracy by the City Attorney's Office who recommends payment as requested.

Babcock Road/Leon Creek Improvements – Hausman to DeZavala Road – There are 22 signed instruments and 2 condemned parcels in the 26-parcel project. The two remaining parcels have been submitted to the City Attorney's Office to begin condemnation proceedings. Construction on this project is complete. The scope of this project included the reconstruction of Babcock Road from Hausman to Nickle and from DeZavala to a point west of Spring Rain to a typical 44-foot width. It also included the construction of new bridges at Huesta and Leon Creeks and new curbs, sidewalks, and driveways.

Bitters Road – West Avenue to Heimer Road (MPO) – There are five signed instruments and five condemned parcels in the 10-parcel project. This project is currently under construction, and scheduled to be completed by January 2005. The scope of this project includes the widening of the existing roadway to seven lanes, adding left and right turn lanes at U.S. 281 to facilitate traffic through the intersection of U.S. 281, and upgrade traffic signalization. This project will also include the construction of six-foot sidewalks at the curb.

Culebra/Loop 410 Detention Pond – There is one signed instrument and one in negotiation in this two parcel project. The project is currently under construction and is scheduled for completion in September 2004. This detention facility project will serve as a regional storm water facility to reduce peak discharges downstream of Loop 410. The “facility” constitutes a series of berms, concrete walls, culverts, and swales used to contain stormwater flows in the Leon Creek. The facility was proposed in the Leon Creek Watershed Master Drainage Plan prepared by Pape-Dawson Engineers in November 1996. The facility is located approximately at the intersection of Culebra Road and I.H. 410 on Southwest Research Institute property.

Salado Creek Greenway (Hike & Bike Trail) Phase I - There are eight signed instruments and two condemned parcels in the 25 parcel project. Advertisement is scheduled for November 2004, with construction to begin in January 2005, and scheduled to be completed in January 2006. The Real Estate Section was directed to acquire ten of the fee simple title parcels and Pape-Dawson Engineers, Inc., has been contracted for the acquisition of the 15 permanent easement parcels.

POLICY ANALYSIS

Charges for such services are reasonable and necessary expenses related to the above mentioned projects.

FISCAL IMPACT

Babcock Road/Leon Creek Improvements – Hausman to DeZavala

This is a one-time capital improvement expenditure within budget and funds were previously appropriated to the project budget. Therefore, this expenditure is not included in the FY04-FY09 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$224.97 are available from 1994 General Obligation Drainage Improvement Bonds.

Bitters Road – West Avenue to Heimer (MPO)

This is a one-time capital improvement expenditure within budget and is included in the FY04-FY09 Capital Improvement Program Budget. Funds in the amount of \$887.20 are available from 2004 Issued Certificates of Obligation.

Culebra/Loop 410 Detention Pond

This is a one-time capital improvement expenditure within budget and is included in the FY04-FY09 Capital Improvement Program Budget. Funds in the amount of \$6,817.42 are available from 2003 Storm Water Revenue Bonds.

Salado Creek Greenway (Hike & Bike Trail) Phase I

This is a one-time capital expenditure within budget and is not included in the FY04-FY09 Capital Improvement Program Budget. Funds in the amount of \$442.58 are available from 1999 Flood Control & Park Improvement Bonds.

Funds in the amount of \$8,372.17 are available from the following funding sources and authorized payable to Davidson & Troilo, P.C.:

1994 General Obligation Drainage Improvement Bonds	\$ 224.97
1999 Flood Control & Park Improvement Bonds	\$ 442.58
2003 Storm Water Revenue Bonds	\$6,817.42
2004 Issued Certificates of Obligation	<u>\$ 887.20</u>
	\$8,372.17

COORDINATION


This ordinance was coordinated with the City Attorney's Office, the Finance Department, the Office of Management and Budget, and the Texas Department of Transportation.

SUPPLEMENTARY COMMENTS

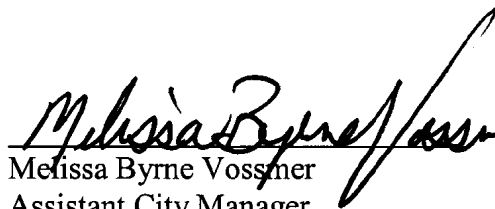
The Discretionary Contracts Disclosure Form required by the Ethics Ordinance is attached.

ATTACHMENTS


1. Discretionary Contracts Disclosure Form

 PE 8/24/04
for Thomas G. Wendorf, P.E.
Director of Public Works


Malcolm Matthews
Director of Parks and Recreation


Melissa Byrne Vossner
Assistant City Manager

Approved:


Terry M. Brechtel
City Manager

ATTACHMENT 1

FISCAL DATA

**Project Name: BABCOCK ROAD/LEON CREEK IMPROVEMENTS-HAUSMAN TO
DeZAVALA PROJECT**
Council District 8

Budget Information:

This is a one-time capital improvement expenditure.

Funds in the amount of \$224.97 are not included in the FY04-FY09 Capital Improvement Program Budget.

Funds are available from 1994 General Obligation Drainage Improvement Bonds transferred to Fund 45-746013, Index Code 632273.

Additional funding is available in Fund 45-460005 by canceling an encumbrance in the amount of \$224.97 in Index Code 623181, CP91796N, and transferring that amount to Fund 45-746013, Index Code 632273.

This item is within budget.

This item represents a portion of a total estimated City project cost of \$5,863,901.

1994 G O Drainage Bonds Obligation Original Budget	\$2,262,990
Subsequent budget approvals	<u>\$4,270,019</u>
Total approved budget-to-date	\$6,533,009

Project Name: BITTERS ROAD – WEST AVENUE TO HEIMER (MPO) PROJECT
Council District 9

Budget Information:

This is a one-time capital improvement expenditure.

Funds in the amount of \$887.20 are included in the FY04-FY09 Capital Improvement Program Budget.

Funds are available from 2004 Issued Certificates of Obligation transferred to Fund 43-070004, Index Code 617365.

This item is within budget.

This item represents a portion of a total estimated City project cost of \$1,836,676

2000A Issued Certificates of Obligation Original Budget	\$2,058,000
Subsequent budget approvals	<u>\$ 89,155</u>
Total approved budget-to-date	\$2,147,155

Project Name: CULEBRA/LOOP 410 DETENTION POND
Council District 6

Budget Information:

This is a one-time capital expenditure.

Funds in the amount of \$6,817.42 are included in the FY04-FY09 Capital Improvement Program Budget.

Funds are available from 2003 Storm Water Revenue Bonds.

This item is within budget.

This item represents a portion of a total estimated City project cost of \$4,998,980.

Request this ordinance create a project from 2003 Storm Water Revenue Bonds entitled Culebra/Loop 410 Dentention Pond and an Index Code entitled Legal Fees.

1999 General Obligation Bonds Original Budget	\$2,500,000
Subsequent budget approvals	<u>\$2,498,980</u>
Total approved budget-to-date	\$4,998,980

Project Name: SALADO CREEK GREENWAY (HIKE & BIKE TRAIL) PROJECT
PHASE I
Council District - City Wide

Budget Information:

This is a one-time capital expenditure.

Funds in the amount of \$442.58 is included in the FY04-FY09 Capital Improvement Program Budget.

Funds are available from 1999 Flood Control & Park Improvement Bonds, transferred to Fund 45-959004, Index Code 631929.

This item is within budget.

This item represents a portion of a total estimated City project cost of \$1,131,778

1999 Flood Control & Park Improvement Bonds Original Budget	\$1,540,000
Subsequent budget approvals	< <u>\$ 408,222</u> >
Total approved budget-to-date	\$1,131,778

City of San Antonio
Discretionary Contracts Disclosure*

*For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2
Attach additional sheets if space provided is not sufficient.
State "Not Applicable" for questions that do not apply.*

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

Disclosure of Parties, Owners, and Closely Related Persons

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

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

None

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

Davidson & Troilo, P.C.

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;

See attached Exhibit "A" for shareholders of Davidson & Troilo, P.C.

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

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

None

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:
See attached Exhibit "B" regarding Political Contributions made by Davidson & Troilo Committee for Civil Awareness & Certain Shareholders. May be subject to amendment.		

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 known.

Signature:	Title: Senior Vice-President	Date:
 Terry Topham	Company: Davidson & Troilo, P.C.	5/18/04

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.

SHAREHOLDERS OF DAVIDSON & TROILO, P. C.

EXHIBIT "A"

Arthur Troilo
Cheree Kinzie
Gaines Griffin
Irwin Zucker
Mark Craun

James Woo
John Davidson
Lea Ream
Terry Topham
Richard L. Crozier

Patrick Lindner
Richard Hettinger
Richard O'Neil
R. Jo Reser
Frank J. Garza

EXHIBIT "B"

Political Contributions (\$100 or more) to Benefit City Council Members May 15, 2002 through May 18, 2004 (24 months)

<u>Name of Councilperson</u>	<u>Contribution Amount</u>
------------------------------	----------------------------

Made by Davidson & Troilo Committee for Civic Awareness (a political action committee)

2002:

Councilman John H. Sanders Campaign	\$ 100.00
Ed Garza Campaign	1,000.00
Friends of Toni Moorhouse	500.00
Carroll Schubert Campaign	500.00

2003:

Ed Garza Campaign	\$ 1,000.00
Carroll Schubert Campaign	500.00
Friends of Toni Moorhouse	500.00
John Clamp Campaign	500.00
Enrique M. Barrera	500.00
Phil Cortez for City Council Campaign	250.00
Julian Castro for Council Campaign	250.00
Cecconi Campaign	500.00
Roger Flores, Jr. Campaign	500.00
Tom Lopez for City Council	250.00
Ron Segovia Campaign	250.00
Enrique M. Barrera Campaign	250.00
Enrique M. Barrera Campaign	200.00
Julian Castro for City Council Campaign	250.00
Roger Flores Campaign 2003	250.00

2004:

Patti Radle Campaign	500.00
Citizens for Charter Reform	5,000.00
Art A. Hall Campaign	500.00
Chip Haass Campaign	250.00