

CONSENT AGENDA
ITEM NO. 21

**CITY OF SAN ANTONIO
PUBLIC WORKS DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

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

SUBJECT: Ordinance Authorizing Payment of legal fees incurred in land acquisition related to various capital projects

DATE: November 18, 2004

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes funds in the amount of \$29,723.50 payable to Bracewell & Patterson, L.L.P. for legal services in connection with the Bitters Road – West Avenue to Heimer MPO project (\$738), Cherry Street Drainage Project #15B Phase II project (\$2,271), Culebra Drainage #58 Phase II Project (\$396), Escalon Street #1008 Drainage Project (\$72), Hi-Lions Drainage #80, Phases III & V project (\$54), Hunt Lane – Marbach to U.S. 90 MPO project (\$1,044), Houston Street – Walters to Onslow MPO project (\$313.50), Laddie Place Detention Pond project (\$15,291.59), Leonhardt at Low Water Crossing project (\$54.00), Octavia Drainage #63, Phase II, Part I project (\$108), Pecan Valley – I.H.10 to J Street MPO project (\$495), Pleasanton Road – Southcross to Mayfield (\$732), South Flores Drainage #70-70A Phase II –Part 3 project (\$54), Western Avenue Drainage #74 IIIA project (\$7,605.41), and W. W. White Phase I – Rigsby to Lord Road project (\$495). These projects are located in various City Council Districts and are funded from General Obligations of the City.

Staff recommends the 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.

Bitters Road – West Avenue to Heimer (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 February 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 wide sidewalks at the curb.

Cherry Street Drainage #15B Phase II – There are 23 signed instruments in the 27-parcel project. Four parcels were submitted to the City Attorney's Office for condemnation proceedings. Construction on this project is complete. The City has a Right of Entry Agreement on the parcel currently in condemnation.

Culebra Drainage #58F Phase II – There are 46 signed instruments in the 56-parcel project. Eight parcels are in negotiations, and two parcels were submitted to the City Attorney's Office for condemnation proceedings. The project is currently under construction and scheduled to be completed in September 2005. This project will improve 4000 feet of Zarzamora Creek from Rubidoux to Culebra Road including necessary utility improvements.

Escalon Street #1008 Drainage – All of the necessary parcels have been acquired in this 10-parcel project. Construction on this project is complete.

Hi-Lions Drainage Project #80, Phases III and V – There are 69 signed instruments in the 70-parcel project. The remaining parcel is in negotiation. Construction on this project is complete.

Hunt Lane – Marbach to U.S. 90 (MPO) – There are 8 signed instruments and one condemned parcel in the 9-parcel project. Construction on this project is complete.

Houston Street – Walters to Onslow (MPO) – There is one signed instrument and one condemned parcel in the two-parcel project. Construction on this project is complete.

Laddie Place Storm Water Detention Facilities – There is one signed instrument and one condemned parcel in the two-parcel project. One parcel was submitted to the City Attorney's Office for condemnation proceedings. The scope of this project includes the design and construction of a Regional Storm Water Facility (Detention Pond) in the Woodlawn Lake area. The expected storm water detention will mitigate flooding in the Laddie/Kampmann area. The acquisition phase of this project will be funded by the Regional Facilities Fund, and the design and construction phase will be funded by Storm Water Revenue Bonds.

Leonhardt at Low Water Crossing – There are two signed instruments and one condemned parcel in the three-parcel project. Construction on this project is complete.

Octavia Drainage #63, Phase II, Part I – There are 72 signed instruments in the 74-parcel project. The two remaining parcels were submitted to the City Attorney's Office for condemnation proceedings. Construction on this project is complete.

Pecan Valley – I.H. 10 to J Street (MPO)

There are 33 signed instruments and three condemned parcels in the 36-parcel project. Construction on this project is complete.

Pleasanton Road from Southcross to Mayfield (MPO) – There are 17 signed instruments and three condemned parcels in the 20-parcel project. Construction on this project is complete.

South Flores Drainage #70-70A Phase II Part 3 – There are 63 signed instruments in the 64-parcel project. The remaining parcel was submitted to the City Attorney's Office for condemnation proceedings. Construction on this project is complete.

Western Avenue Drainage Project #74, Phase III A – There are 17 signed instruments and eight condemned parcels in the 25-parcel project. Construction on this project is complete.

W. W. White Road from Rigsby to Lord Road – There are 42 signed instruments and two condemned parcels in the 45-parcel project. The remaining parcel has been submitted to the City Attorney's Office for condemnation proceedings. This project is currently under construction, and is scheduled to be completed by November 2004. The scope of work for this project includes drainage improvements along W. W. White Road from Rigsby to Lord Road, and Rigsby from W. W. White Road to Salado Creek. It also includes drainage on Dell Crest from Sea Breeze to Rigsby.

POLICY ANALYSIS

Approval of this ordinance for payment of legal services is necessary to complete the real estate transactions on the acquisition of properties in these projects.

FISCAL IMPACT

Bitters Road – West Avenue to Heimer Road (MPO)

This is a one-time capital improvement expenditure within budget and is included in the FY05-FY10 Capital Improvement Program Budget. Funds in the amount of \$738 are available from 2004 Issued Certificates of Obligation.

Cherry Street Drainage #15B Phase II

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$2,271 are available from 1996 Certificates of Obligation.

Culebra Drainage #58F Phase II

This is a one-time capital improvement expenditure within budget and is included in the FY05-FY10 Capital Improvement Program Budget. Funds in the amount of \$396 are available from 1999 General Obligation Drainage Improvement Bonds.

Escalon Street #1008 Drainage

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$72 are available from 1996 Certificates of Obligation.

Hi-Lions Drainage #80, Phase III & V

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$54 are available from 1996 Certificates of Obligation.

Hunt Lane – Marbach to U.S. 90 (MPO)

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$1,044 are available from 1996 Certificates of Obligation.

Houston Street – Walters to Onslow (MPO)

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$313.50 are available from 1996 Certificates of Obligation.

Laddie Place Detention Pond

This is a one-time capital improvement expenditure within budget and is included in the FY05-FY10 Capital Improvement Program Budget. Funds in the amount of \$15,291.59 are available from 2003 Storm Water Revenue Bonds.

Leonhardt at Low Water Crossing

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$54 are available from 1996 Certificates of Obligation.

Octavia Drainage #63, Phase II, Part I

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$108 are available from 1996 Certificates of Obligation.

Pecan Valley – I.H. 10 to J Street (MPO)

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$495 are available from 1996 Certificates of Obligation.

Pleasanton Road – Southcross to Mayfield

This is a one-time capital improvement expenditure within budget and is included in the FY05-FY10 Capital Improvement Program Budget. Funds in the amount of \$732 are available from 2001 Certificates of Obligation.

South Flores Drainage #70-70A Phase II-Part 3

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$54 are available from 1996 Certificates of Obligation.

Western Avenue Drainage Project #74, Phase III A

This is a one-time capital improvement expenditure within budget and funds were to be provided by Certificates of Obligation. This expenditure was not included in the FY05-FY10 Capital Improvement Program Budget. Approval of this ordinance will appropriately modify the Capital Budget. Funds in the amount of \$7,605.41 are available from 1996 Certificates of Obligation.

W. W. White Road from Rigsby to Lord Road

This is a one-time capital improvement expenditure within budget and is included in the FY05-FY10 Capital Improvement Program Budget. Funds in the amount of \$495 are available from 2001 Certificates of Obligation.

Funds in the amount of \$29,723.50 are available from the following funding sources and authorized payable to Bracewell & Patterson, L.L.P.:

1996 Certificates of Obligation	\$12,070.91
1999 General Obligation Drainage Improvement Bonds	\$ 396.00
2001 Certificates of Obligation	\$ 1,227.00
2003 Storm Water Revenue Bonds	\$15,291.59
2004 Issued Certificates of Obligation	<u>\$ 738.00</u>
	\$29,723.50

COORDINATION

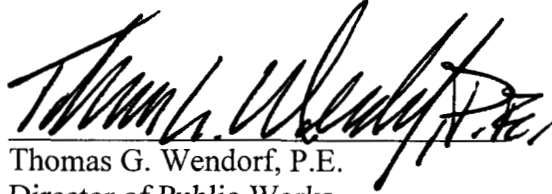
This ordinance was coordinated with the Finance Department, the Office of Management and Budget, the City Attorney's Office, and the Texas Department of Transportation.

SUPPLEMENTARY COMMENTS

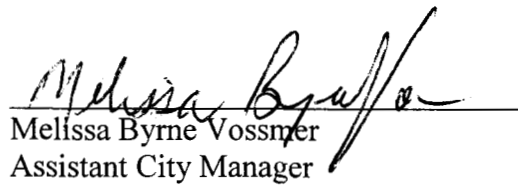
The Discretionary Contracts Disclosure Form required by the Ethics Ordinance is attached.

ATTACHMENTS

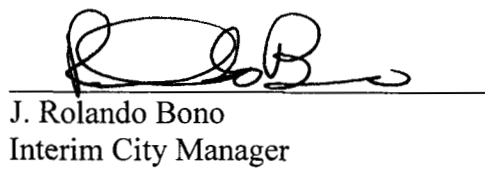
1. Discretionary Contracts Disclosure Form



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



Melissa Byrne Vossmer
Assistant City Manager



J. Rolando Bono
Interim City Manager

City of San Antonio
Discretionary Contracts Disclosure*

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

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

Disclosure of Parties, Owners, and Closely Related Persons

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

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

Not Applicable.

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

- (i) Bracewell & Patterson, L.L.P. is the business entity that is the party to the discretionary contract.
- (ii) None.

and the name of:

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

None.

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 list of Bracewell & Patterson, L.L.P. partners.

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.
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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.

(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:
Art Hall	\$ 100.00	All within the last 24 months
Patti Radle	\$1,200.00	
Roger Perez	\$ 500.00	
Roger Flores, Jr.	\$ 250.00	

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.

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.

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.**

Signature: 	Title: Partner in Charge – San Antonio Office Company: Bracewell & Patterson, L.L.P.	Date: 6/10/04
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J. Tullos Wells

HOUSTON

Aksamit, Roger D.
Adis, Jay R.
Anderson, William S.
Ballard Jr., Glenn A.
Barr Jr., John H.
Behke, Lance W.
Blanco, Ileana M.
Bland, John L.
Bopp, Gregory M.
Borreca, Christopher P.
Bradley, James E.
Brantley, John R.
Brenner, Margaret T.
Brown, Heather L.
Brown, Lisa A.
Carter, Lesa L.
Clark, Robert L.
Connelly, M. Coy
Crain, Stephen B.
Dade, W. C.
Daniels, Douglas A.
Dumesnil, Bryan S.
Edison, Andrew M.
Evans, Mark C.
Frels, Kelly
Gilbert, Christopher B.
Giraud III, Charles W.
Clover, Randall K.
Gonsoulin Jr., Dewey J.
Gonzalez, George Y.
Gunter III, J. C.
Gutermuth, William D.
Halevy, Amy K.
Harris, Warren W.
Hayes, William J.
Herring, Laura B.
Hester, Tracy D.
Hodgins, David B.
Hollingsworth, Jarvis V.
Horner, Jeffrey J.
Horton, Janet L.
Hull, Robert J.
Jacobs, Jennifer W.
Jocz, Bruce R.
Kaim, Henry J.
Keneally, Walter S.
Kimball Jr., Albert B.
Kneese, V. S.
Kuhn, Michael

Kurtz, Marcy E.
Locascio, David W.
Long, Geoffrey A.
Luédke IV, William T.
Manford III, Thomas D.
McAnelly, W. J.
McBride, Ralph D.
McDowell, David T.
Miles, Robin J.
Moore III, Thomas O.
Orloff, Gary W.
Oxford, Patrick C.
Ozdogan, Mary C.
Parsons, Katherine D.
Patman, Carrin F.
Rafte, G. A.
Renfroe, Tracie J.
Rhebergen, Constance G.
Rice, Richard C.
Roffwarg, Aaron P.
Sampson Jr., Phillip L.
Sanders, Scott C.
Schneider-Vogel, Merri
Scott, Ronald
Sharp, Phillip D.
Sholeen, Eden P.
Spalding, Andrew F.
Stephens, Robert G.
Stephenson, Phyllis P.
Still Jr., Charles H.
Symonds, Margaret B.
Temple, Tracy C.
Thompson Jr., Clark C.
Thompson III, J. D.
Tobor, Ben D.
Tomlinson, Thomas M.
Trautner, P. Kevin
Vance, Carol Stoner
Vest, Jr., G. W.
Visage, Tony L.
Wege, Mark W.
Whittle, Jeffrey S.
Wilde, Carlton
Wilde, William Key
Wilkins, Timothy A.
Witschey, Jr., R. D.
Wood III, William A.

AUSTIN

Adkins, Thomas W.
Benesh, W.S.
Ford, Joseph Moody
Fox, Paul W.
Gourley, Lacey L.

Groten, Eric
Ramirez, Kenneth R.
Ricketts, Philip F.
Taylor, Andrew M.
Watson, Robert A.

CORPUS CHRISTI

Hegland, Roberta J.
McHugh, Colleen

Nichols, Robert S.
Vicknair, Audrey Mullert

DALLAS/FORT WORTH

Boone, Gayle A.
Brown, Sanford M.
Davis, Janice Z.
Dinnin, Michael L.
Kyle, Alfred G.
Millard Jr., William H.
Rentzel, Christopher H.

Rossi, Lynn
Scott, Lynn R.
Stricklin, Samuel M.
Tankersley, Michael W.
Whitaker, Elizabeth D.
Williams Jr., Lon R.
Wisk, Allan C.

SAN ANTONIO

Bannwolf, Timothy H.
Barrera, Mario A.
Barrera, Ruben R.
Byrd, Leslie S.
Danysh, Richard C.
Garcia, Victoria M.
Harris, J. J.

Johnson, Russell S.
Jones, Mark A.
Kizziar Jr., James H.
Ruttenberg, Frank Z.
Smith, Annalyn G.
Wells, J. Tullos.

WASHINGTON, D.C.

Anikeeff, Anthony H.
Bethune, Edwin R.
Brack, William T.
Chapman, James Louis
Cope, John R.
Ewing, Kevin A.
Foote, George M.
Godley, Gene E.
Hogwood, Stephen F.
Horn, Richard D.
Israel, Benjamin L.
Krachman, Albert B.
Lister, Penelope M.
Nelson, Nancy J.

Nido, Luis M.
O'Connor, Nancy M.
Pate, Michael L.
Racicot, Marc F.
Rich, Randall S.
Segal, Scott H.
Settanni, Andrea M.
Shoneman, Charles H.
Watkiss, Jeffrey D.
Williams, George H.
Wodka, Nancy A.

NORTHERN VIRGINIA

Decker, R. G.
Dulany, T. P.
Petersen, John C.

Rommel, Kurt C.
Stauffer Jr., William L.

KAZAAKHSTAN

Couch, John A.
Marston, Edgar J.

Vojack, Gregory

LONDON

Hunt, Martin J.