

**CITY OF SAN ANTONIO
CITY ATTORNEY'S OFFICE
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

SUBJECT: Selection of Legal Consultant in Connection with the Lease and Development Agreement with Landry's Restaurants, Inc. for the Tower of the Americas

Date: December 16, 2004

SUMMARY AND RECOMMENDATION

This ordinance will authorize the execution of an amendment to the professional services contract with Bracewell & Patterson, L.L.P. to allow for payment in the amount of amount of \$115,261.00 for additional legal services provided in negotiating the Lease and Development Agreement for the development, operation and maintenance of the Tower of the Americas. This ordinance will also authorize appropriation of \$115,261 from 2003-2007 Park Bond Funds for these legal services.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

On March 4, 2004, the City Council passed Ordinance No. 98910, selecting Landry's Restaurants, Inc. (Landry's) and authorizing contract negotiations for the development, operation and maintenance of the Tower of the Americas. Because of the complexity and uniqueness of the issues involved in this transaction, the City Attorney sought outside legal expertise to provide all necessary legal services. The law firm of Bracewell & Patterson was selected and performed legal services on behalf of the City including preparing and negotiating a Lease and Development Agreement with Landry's which was passed and approved by City Council on November 18, 2004 by Ordinance 99996. Negotiations proved more difficult and longer than originally anticipated causing the legal fees to exceed the original estimate.

The Bracewell & Patterson attorneys involved in this transaction are located in Houston, Texas. This firm was selected by the City Attorney based on their expertise in the areas of contract law and contract negotiation. Thomas O. Moore, III, a partner in the firm, has been designated as the lead attorney for this engagement. Ron I. Erlichman, an associate attorney with Bracewell & Patterson, is assisting in this transaction. This law firm provides significant collective experience in the areas of law applicable to this transaction.

POLICY ANALYSIS

The contract with Bracewell & Patterson L.L.P. was approved through Ordinance 99387 on June 24, 2004. The firm has entered into a professional services contract with the City which requires compliance with the City Attorney's Office Guidelines.

FISCAL IMPACT

The sum of \$125,000 has previously been appropriated. This ordinance will appropriate an additional \$115,261 from 2003-2007 Park Bond Funds proceeds for these professional services. This is the final amount needed for this project.

COORDINATION

This Council action has been coordinated through the City Manager's Office and the Parks and Recreation Department.

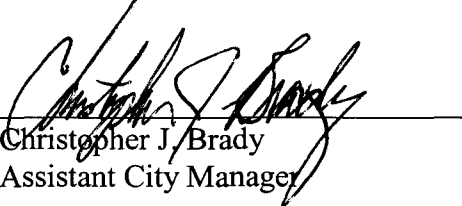
SUPPLEMENTARY COMMENTS

The required ethics disclosure form is attached.

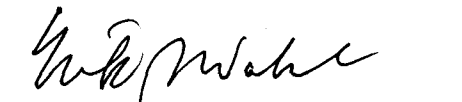


Andrew Martin
City Attorney

Recommended:



Christopher J. Brady
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.
SANANTONIO/672677.1

City of San Antonio Discretionary Contracts Disclosure*

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

* 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*

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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.
Borrecia, 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.

Kurtz, Marcy E.
Locascio, David W.
Long, Geoffrey A.
Luedke 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.