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AGENDA ITEM NO. _____

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 Bond Counsel

DATE: January 6, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the engagement of the following attorneys and law firms to serve as the City of San Antonio's bond counsel in connection with various financings: Escamilla & Poneck, Inc., Fulbright & Jaworski L.L.P., Holland & Knight L.L.P., Loeffler Tuggey Pauerstein Rosenthal L.L.P., McCall, Parkhurst & Horton L.L.P., Vinson & Elkins L.L.P., William T. Avila, P.C., Winstead, Sechrest & Minick P.C.. The various financings include the Espada/Economic Development Project (Special Project); General Obligation Bonds; Certificates of Obligation; Airport System Improvement Revenue Bonds (GARBS); Airport Passenger Facility Charge (PFC) Revenue Bonds; Municipal Drainage Utility System Revenue Bonds; Parking System Revenue Bonds; San Antonio Housing Trust Finance Corporation Bonds; Lease/Purchase Financing Bonds, and Library District Financing (Special Project).

This ordinance will also authorize the City Attorney to select from the above-named attorneys and law firms to serve as bond counsel for the following financing transactions, when and if such transaction occurs, to the extent the City has the authority to select such counsel: Airport Facilities Revenue Bonds; Tax Increment Financing Bonds; Greater Kelly Development Corporation; Brooks Development Authority; Public Improvement Districts; Special Assessment Districts; Interest Rate Exchange Transactions; Variable Rate Demand Bonds; Auction Rate Securities; Tax-Exempt Commercial Paper; and conduit financings to include Economic Development, Health Care, Higher Education, Housing Authority, Municipal Facilities Corporation, and Local Development Corporation; and any other debt issuance not otherwise described herein where the City is authorized or obligated to engage counsel as determined by the Finance Director in consultation with the City Attorney.

Those bond counsel attorneys and law firms that are serving as the City's bond counsel in connection with pending financings are authorized by this ordinance to continue to serve in that capacity until completion of said transaction, in accordance with the following:

TRANSACTION	LEAD COUNSEL	CO-BOND COUNSEL
Pension Obligation Bonds	Winstead, Sechrest & Minick, P.C.	William T. Avila
2006 G.O. Forward Refunding	Fulbright & Jaworski L.L.P.	Escamilla & Poneck, Inc.
Convention Center Hotel Revenue Bonds (Special Project)	McCall, Parkhurst & Horton, Inc.	Escamilla & Poneck, Inc. and Andrews Kurth L.L.P.
Empowerment Zone Bonds	McCall, Parkhurst & Horton, Inc.	

Staff recommends approval.

BACKGROUND INFORMATION

The City Attorney's Office released a Request for Qualifications ("RFQ") on July 26, 2004 seeking Statements of Interest from attorneys and law firms interested in serving as the City's Bond Counsel in connection with various financings. In addition to being posted on the City's website and being advertised in the Express-News, the RFQ was mailed to those firms currently serving as the City's bond counsel, as well as those firms in the San Antonio area listing bond law as an area of expertise. All Statements of Interest were required to be received no later than August 23, 2004 in order to be considered for award; eight (8) firms responded.

An evaluation committee consisting of the First Assistant City Attorney, the Deputy City Attorneys, the Director of Finance and the Investment Manager, interviewed all eight (8) firms that submitted a response. All attorneys and law firms interviewed demonstrated competence in various financings and are qualified to serve as the City's Bond Counsel. Based on these interviews and the interview team's analysis and discussion of the background, experience and identified strengths of each attorney and law firm, the committee recommends the following to serve as the City's bond counsel in connection with the following transactions:

TRANSACTION	LEAD	CO-BOND COUNSEL
General Obligation Bonds	Fulbright & Jaworski L.L.P.	William T. Avila

TRANSACTION	LEAD	CO-BOND COUNSEL
Certificates of Obligation	Fulbright & Jaworksi L.L.P.	William T. Avila
S.A. Housing Trust Finance	Fulbright & Jaworski L.L.P.	
Lease/Purchase Financings	Fulbright & Jaworski L.L.P.	
Parking Revenue Bonds	McCall, Parkhurst & Horton L.L.P.	Holland & Knight L.L.P.
Airport System Improvement Revenue Bonds (PFC's & GARB's)	McCall, Parkhurst & Horton L.L.P.	
Municipal Drainage Utility System Revenue Bonds	Loeffler Tuggey Pauerstein Rosenthal L.L.P and Vinson & Elkins L.L.P.	
Library District (Special Project)	Loeffler Tuggey Pauerstein Rosenthal L.L.P and Vinson & Elkins L.L.P.	
ESPADA(Terramark/A&M) Economic Development Corp. (Special Project)	Winstead, Sechrest & Minick, P.C.	

The engagement of the above-listed attorneys and law firms shall be for those transactions initiated by the Finance Director on or after the effective date of this ordinance through September 30, 2007. The City Council may, at its discretion, authorize an extension of these engagements for two (2) one (1) year periods, as evidenced by passage of a subsequent ordinance. If such renewal is exercised, same terms shall commence October 1st and terminate September 30th in each of the following years.

POLICY ANALYSIS

The proposed selection of bond counsel is consistent with City policy and previous actions to employ bond counsel to assist with the City's financings.

FISCAL IMPACT

Fees for bond counsel services in connection with the issuance of debt obligations are typically paid from bond proceeds. Upon approval by City Council of the recommendations for bond counsel, the City Attorney, in consultation with the Finance Director, will negotiate a fair and reasonable fee, in accordance with industry standards for bond counsel services, with each of the recommended attorneys and firms, payable and contingent upon the issuance of bonds for each of the listed financings, with the exception of a Special Project. A Special Project is one which requires legal consultation but which may not result in the issuance of a debt instrument. Fees for Special Projects are negotiable on a case-by-case basis and may be paid from bond proceeds or other available funds, subject to City Council approval. In all instances, fees will be divided between the Lead Counsel and Co-Bond Counsel on a 70% - 30% basis, unless negotiated otherwise.

COORDINATION

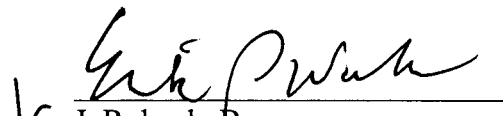
This item has been coordinated with the Finance Department.

SUPPLEMENTARY COMMENTS

The disclosures required by the City's Ethics Ordinance are attached.



Andrew Martin,
City Attorney


J. Rolando Bono,
Interim City Manager

ATTACHMENT B
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

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:

WILLIAM T. AVILA, P.C.

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;

WILLIAM THADDEUS AVILA, PRESIDENT, 100% OWNER

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:
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.

Signature: 	Title: President Company: William T. Avila, P.C.	Date: 8-23-04

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.

ATTACHMENT B
City of San Antonio
Discretionary Contracts Disclosure*

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

PABLO ESCAMILLA
DOUGLAS A. PONECK

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

ESCAMILLA & PONECK, INC.

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;

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.

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NONE

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Signature: <i>Douglas A Poneck</i>	Title: VICE PRESIDENT Company: ESCAMILLA & PONECK, INC.	Date: August 23, 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.

City of San Antonio Discretionary Contracts Disclosure*

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

N/A

(2) the identity of any **business entity**⁹⁴ that would be a party to the discretionary contract:

Fulbright & Jaworski L.L.P.

and the name of:

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

N/A

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 Fulbright & Jaworski L.L.P. partners.

(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.

Jane H. Macon, James P. Plummer, and James M. Summers

⁹⁴ 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.


Political Contributions

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To Whom Made:	Amount:	Date of Contribution:
See attached list of contributions.		

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 question⁹⁵ 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.

Signature:	Title: Partner	Date: 08/23/04
	Company: Fulbright & Jaworski L.L.P.	

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N/A

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

Holland & Knight LLP

and the name of:

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

N/A

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;

Partners:	Burke Huber	William S. Sessions
	Alex Huddleston	John Wittenberg
	Andy Kerr	
	Camille Stearns Miller	

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N/A

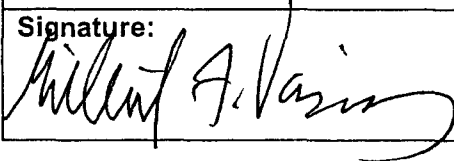
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To Whom Made:	Amount:	Date of Contribution:
See attachment		

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.

Unaware of any such facts.		
Signature: 	Title: Senior Counsel Company: Holland & Knight LLP	Date: August 23, 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.

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

N/A

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

Loeffler Jonas & Tuggey LLP

and the name of:

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

N/A

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;

Tom Loeffler
W. James Jonas III
Timothy N. Tuggey
Robert Rosenthal
J.D. Pauerstein

(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.

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N/A

Political Contributions

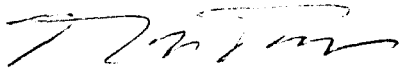
Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any *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:
Ed Garza	\$ 9,500 (in-kind)	10/01/2002
Julian Castro	\$ 500	3/12/2003
Toni Moorhouse	\$ 500	3/19/2003
Ron Segovia	\$ 500	6/30/2003
Art Hall	\$ 500	7/18/2003
Carroll Schubert	\$ 1,000	8/18/2003
Chip Haass	\$ 500	9/23/2003
Joel Williams	\$ 500	10/28/2003
Julian Castro	\$ 500	11/4/2003
Ron Segovia	\$ 500	11/7/2003
Carroll Schubert	\$ 500	2/16/2004
Ron Segovia	\$ 500	3/3/2004
Joel Williams	\$ 500	4/6/2004
Chip Haass	\$ 500	5/24/2004
Ron Segovia	\$ 300	6/24/2004
Carroll Schubert	\$ 250	8/2/2004

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N/A

N/A		
Signature: 	Title: Managing Partner Company: Loeffler Jonas & Tuggey LLP	Date: August 23, 2004

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(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:

McCall, Parkhurst & Horton L.L.P.

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;

None

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N/A

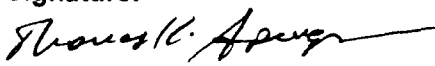
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To Whom Made:	Amount:	Date of Contribution:
None		

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Signature: 	Title: Partner Company: McCall, Parkhurst & Horton L.L.P.	Date: 8/23/04

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N/A

(2) the identity of any business entity¹ that would be a party to the discretionary contract:

Vinson & Elkins L.L.P.

and the name of:

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

N/A

and the name of:

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None

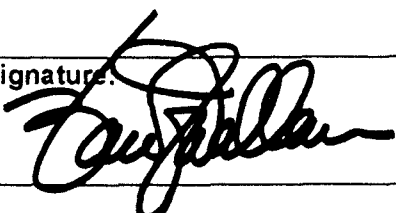
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To Whom Made:	Amount:	Date of Contribution:
Ed Garza Campaign	\$1,000.00	April 4, 2003
Ed Garza Campaign	\$1,000.00	May 28, 2004
Julian Castro Campaign	\$250.00	2004

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.

		
Signature:	Title: Partner Company: Vinson & Elkins L.L.P.	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.

B. 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.

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:

M. Paul Martin
Carey R. Troell
Clayton S. Binford
Blakely L. Fernandez

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

Winstead Sechrest & Minick P.C.

and the name of:

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

N/A

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;

N/A

(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.

N/A

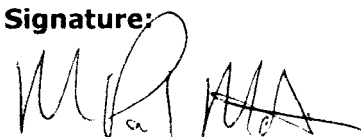
Political Contributions

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:
Phil Hardberger	\$100.00	May 26, 2004

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.

Signature: 	Title: Managing Shareholder San Antonio Company: Winifred Sechrist & Minich PC Date: 8/23/04
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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.