

AGENDA ITEM NO. **32**

**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:** Indefinite Delivery Professional Services Agreements for City-wide Traffic Engineering Services

**DATE:** January 6, 2005

**SUMMARY AND RECOMMENDATIONS**

This ordinance accepts the terms and conditions and authorizes the execution of two (2) Indefinite Delivery Professional Services Agreements for City-wide traffic engineering consulting services with Pape-Dawson Engineers, Inc. and Post, Buckley, Schuh & Jernigan, Inc., dba PBS & J, San Antonio, each in an amount not to exceed \$500,000, for a total ordinance amount of \$1,000,000, for as-needed services to supplement City of San Antonio Traffic Engineering resources in connection with City-owned facilities and improvements, construction projects and emergency situations. Each of these agreements will be for a term of one year, with an option to extend one or both of the agreements for one (1) year at the City's discretion as approved by the Director of Public Works.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

Due to the high volume of requests for traffic-related studies, investigations and remediation, and the limited resources of the Public Works Traffic Engineering Division, the Public Works Department released a Request for Qualifications (RFQ) from qualified Traffic Engineering firm(s)/team(s) to provide stand-by, or indefinite delivery traffic engineering professional services in connection with City-owned facilities. This ordinance will approve the execution of two Indefinite Delivery Professional Services Agreements with Pape-Dawson Engineers, Inc. and Post, Buckley, Schuh & Jernigan, Inc., dba PBS&J, Inc., each in an amount not to exceed \$500,000 for professional traffic engineering services.

The professional services provided under these agreements may include, but are not limited to the following:

- Transportation Systems Planning;
- Land Planning/Engineering;
- Roadway Design;
- Traffic Engineering Studies to include Traffic Signal Timing Studies, Traffic Control Systems Analysis;
- Design and Implementation of Traffic Systems to include Intelligent Transportation Systems (ITS);
- ITS Control Systems Analysis;
- Traffic Operations Design;
- Design and Implementation of Signage, Pavement Marking and Channelization; and
- Bicycle and Pedestrian Facility Development.

Deliverables required as part of the traffic engineering services provided by the firms/teams will include, but not be limited to field investigations and measurements, data collections, existing condition evaluation, calculations, recommendations and the development of alternatives and proposed designs necessary to complete the assignment. Periodic updates documenting field observations and service status must also be provided. In the instances where locations under study provide access to area schools, businesses, churches and other public gathering places, the consultant will serve as the liaison between the City of San Antonio, stakeholders, and other interested parties as required. It will be necessary for the consultant to document all activities and contacts, as well as to prepare the following documents:

- Preliminary documents, plans, and/or reports, as directed which discuss findings and recommendations;
- Final documents, plans, and/or reports, per City requirements; and any
- Handouts and/or graphical displays for use at public meetings.

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. Requirements for each task shall be detailed in the individual work orders assigned. In the event additional services are required outside the scope of any work order, the scope of services and any additional fees related to these services will be agreed upon by the City of San Antonio and the Consultant in writing, and in advance of these services being performed by the Consultant(s).

The professional services authorized by this ordinance may also be utilized as needed during the execution of City Capital Improvement Projects, as the stand-by or indefinite delivery consultants are able to quickly assemble team members of various disciplines to address potential issues, and commence services immediately upon the City's recognition of the requirement for services.

Pape-Dawson Engineers, Inc. and PBS&J, San Antonio were selected by the Public Works Architectural and Engineering Selection Committee as the best-qualified of four respondents to the City's solicitation. Each of the two firms selected is recognized as having individual talents and specialties that make them specifically suited for the different types of anticipated consulting services. The Evaluation/Rating Summary Sheet is included herein as Attachment 1.

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 agreement, with the option to renew one or both of the agreements for one additional one-year period, upon approval of the Director of Public Works.

### **POLICY ANALYSIS**

Approval of this ordinance will be consistent with City Council policy to ensure public safety and will enable prompt response to issues that may arise in or around City-owned facilities and during the execution of City construction projects.

### **FISCAL IMPACT**

Funding for these agreements is not included in the FY05-10 Capital Improvement Program Budget. Funds for these services are to be authorized by City Council as necessary and appropriated from allocations such as Neighborhood Access and Mobility Funds (NAMP), City Council One-Time Project Funds, previously authorized Capital Improvement Project Funds, and through approved funding agreements with outside agencies/stakeholders such as school districts, churches, businesses and other affected governmental entities.

### **COORDINATION**

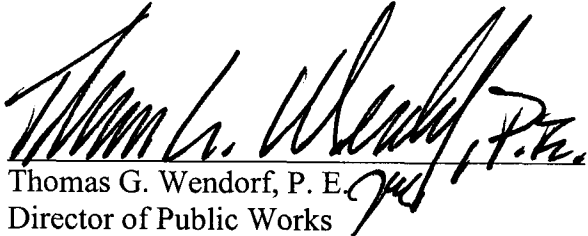
This request for ordinance has been coordinated with the City Attorney's Office, the Finance Department, the Contract Services Department and the Office of Management and Budget.

### **SUPPLEMENTARY COMMENTS**

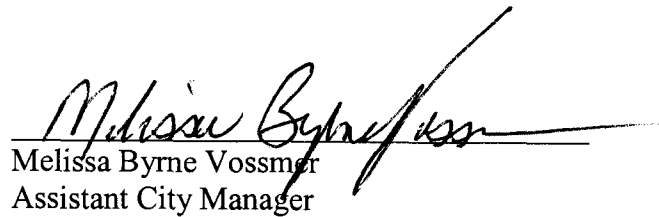
The Discretionary Contracts Disclosure Forms as required by the Ethics Ordinance are included herein as Attachment 4.

## ATTACHMENTS

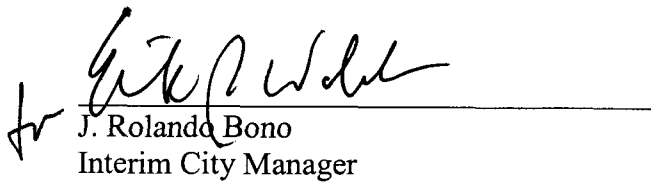
1. Rating/Evaluation Summary Sheet
2. Professional Services Agreement, Pape-Dawson Engineers, Inc.
3. Professional Services Agreement, PBS&J San Antonio
4. Discretionary Contracts Disclosure Forms



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 - ARCHITECT/ENGINEER REVIEW

**Notes:** \* Special Considerations - special expertise regarding codes, ADA, rules, regulations, regulatory agency criteria, etc. of: TCEQ (Texas Natural Resource Conservation Commission), HDRC (Historic and Design Review Commission) and TxDOT as they relate to this project.

**PROFESSIONAL SERVICES AGREEMENT  
FOR  
STAND-BY TRAFFIC ENGINEERING SERVICES**

**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 Pape-Dawson Engineers, Inc., by and through its Senior Vice President, K. Stephen Bonnette, 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, 5<sup>th</sup> 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, 5<sup>th</sup> 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 (11<sup>th</sup>) 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 one (1) additional one (1) year period. The Director of Public Works shall have the authority to exercise such option at his discretion. In the event such option is 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 five hundred thousand and no/100 dollars (\$500,000).

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 6.74 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 <u>Single Limit</u> for <u>Bodily Injury</u> and <u>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 – Traffic Engineering	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 -- Traffic Engineering  
Attn: Lilly Banda  
P.O. Box 839966  
San Antonio, Texas 78283-3966

#### **If intended for CONSULTANT, to:**

Pape-Dawson Engineers, Inc.  
555 E. Ramsey  
San Antonio, Texas 78216  
Attn: K. Stephen Bonnette, 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.

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**

\_\_\_\_\_  
CITY MANAGER

**CONSULTANT  
PAPE-DAWSON ENGINEERS, INC.**

  
\_\_\_\_\_  
K. STEPHEN BONNETTE, P.E.  
SENIOR VICE PRESIDENT

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DATE

**ATTACHMENT "A"**  
**(SCOPE OF SERVICES)**

**Scope of Work**

The scope of services provided in a Work Task may include professional services required to perform investigations, measurements, data collection, report and plan preparation in connection with:

- Transportation Systems Planning;
- Land Planning/Engineering;
- Roadway Design;
- Traffic Engineering Studies to include Traffic Signal Timing Studies, Traffic Control Systems Analysis;
- Design and Implementation of Traffic Systems to include Intelligent Transportation Systems (ITS);
- ITS Control Systems Analysis;
- Traffic Operations Design;
- Design and Implementation of Signage, Pavement Marking and Channelization; and
- Bicycle and Pedestrian Facility Development.

Deliverables required as part of the traffic engineering services provided by Consultant will include, but not be limited to field investigations and measurements, data collections, existing condition evaluation, calculations, recommendations and the development of alternatives and proposed designs necessary to complete the assignment. Periodic updates documenting field observations and service status must also be provided. In the instances where locations under study provide access to area schools, businesses, churches and other public gathering places, the consultant will serve as the liaison between the City of San Antonio, stakeholders, and other interested parties as required. It will be necessary for the consultant to document all activities and contacts, as well as to prepare the following documents:

- Preliminary documents, plans, and/or reports, as directed which discuss findings and recommendations;
- Final documents, plans, and/or reports, per City requirements; and any
- Handouts and/or graphical displays for use at public meetings.

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".

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").

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.

The Consultant, in consideration for the compensation herein provided, shall render professional traffic engineering consulting services necessary for the development of the Project to final completion.



**ATTACHMENT "B"**

**(CONSULTANT'S FEE PROPOSAL/PRICE SCHEDULE)**

# CITY OF SAN ANTONIO TRAFFIC ENGINEERING

## PAPE-DAWSON ENGINEERS, INC.

### Labor:

Staff Category	Hourly Billing Rate
Chairman/President/CEO	\$200.00
Project Principals	\$155.00
Project Manager	\$155.00
Deputy Project Manager	\$140.00
Roundabout Designer	\$150.00
Traffic Signal Timing Engineer	\$150.00
Senior Design Engineer	\$120.00
Design Engineer	\$110.00
Asst. Project Manager	\$95.00
Sr. Designer	\$90.00
Designer	\$75.00
Engineer III	\$86.00
Engineer II	\$82.00
Engineer I	\$72.00
Tech III	\$65.00
Tech II	\$55.00
Tech I	\$50.00
RPLS	\$125.00
Survey Crew (3person)	\$115.00
Survey Crew (2 person)	\$95.00
Clerical	\$60.00

### Direct Expenses:

ITEM	DESCRIPTION	UNIT
Roll Plots	at cost	LF
Mylar Plots	at cost	SF
8 1/2" X 11" copies	\$0.10	EA
11" X 17" copies	\$0.20	EA
Total Station/Data Collector	\$10.00	HR
GPS	\$25.00	HR
CADD Computer	\$25.00	HR
Mileage	\$0.375	MI
Other Travel	at cost	TRIP
Deliveries	at cost	EA
Lodging	at cost	DAY
Meals	\$30.00	DAY
Miscellaneous Expenses	at cost	EA

Direct Expenses will have a 10% mark-up for billing costs.

# CITY OF SAN ANTONIO TRAFFIC ENGINEERING

## WHM TRANSPORTATION ENGINEERING CONSULTANTS

### Labor:

CLASSIFICATION	Hourly Billing Rate
Senior Advisor/Principal	\$188.34
Project Manager	\$147.35
Project Manager	\$127.36
Engineer	\$111.79
EIT	\$84.20
CADD Technician	\$68.72
Clerical	\$57.56

### Direct Expenses:

ITEM	DESCRIPTION	UNIT
Roll Plots	at cost	LF
Mylar Plots	at cost	SF
8 1/2" X 11" copies	\$0.10	EA
11" X 17" copies	\$0.20	EA
Total Station/Data Collector	\$10.00	HR
GPS	\$25.00	HR
CADD Computer	\$25.00	HR
Mileage	\$0.375	MI
Other Travel(airfare, car rental, etc.)	at cost	Trip
Deliveries	at cost	EA
Lodging	at cost	Day
Meals	at cost	Day
Miscellaneous Expenses	at cost	EA

Direct Expenses will have a 10% mark-up for billing costs.

# CITY OF SAN ANTONIO TRAFFIC ENGINEERING

**Civil Engineering Consultants, Don Durden, Inc.**

**Labor:**

CLASSIFICATION	Hourly Billing Rate
Principal Engineer	\$150.00
Senior Project Manager	\$135.00
Project Manager II	\$125.00
Project Manager I	\$110.00
Project Engineer III	\$110.00
Project Engineer II	\$100.00
Project Engineer I	\$90.00
Engineer in Training III	\$90.00
Engineer in Training II	\$80.00
Engineer in Training I	\$70.00
Senior Traffic Engineer	\$150.00
Traffic Engineer I	\$100.00
Engineering Technician II	\$75.00
Engineering Technician I	\$58.00
Computer Technician	\$75.00
CADD Draftsperson	\$58.00
Clerical	\$40.00
Senior RPLS	\$135.00
Project Surveyor	\$110.00
Surveyor in Training	\$90.00
Survey Technician	\$75.00
2 Person Crew	\$100.00
3 Person Crew	\$125.00
4 Person Crew	\$150.00
Abstractor	\$55.00
2 Person GPS Crew	\$125.00
3 Person GPS Crew	\$150.00
4 Person GPS Crew	\$175.00

**Direct Expenses:**

ITEM	DESCRIPTION	UNIT
Roll Plots	at cost	LF
Mylar Plots	at cost	SF
8 1/2" X 11" copies	\$0.10	EA
11" X 17" copies	\$0.20	EA
Total Station/Data Collector	\$10.00	HR
GPS	\$25.00	HR
CADD Computer	\$25.00	HR
Mileage	\$0.375	MI
Other Travel(airfare, car rental, etc.)	at cost	Trip
Deliveries	at cost	EA
Lodging	at cost	Day
Meals	at cost	Day

Direct Expenses will have a 10% mark-up for billing costs.

# CITY OF SAN ANTONIO TRAFFIC ENGINEERING

## AC Group, LLC

### Labor:

CLASSIFICATION	Hourly Billing Rate
Project Management/Supervisor	\$75.00
Traffic Technician	\$65.00
Traffic Data Collector	\$50.00
Clerical	\$50.00

### Direct Expenses:

ITEM	DESCRIPTION	UNIT
24-Hour Traffic Volume Directional	\$125.00	Counter
24-Hour Traffic Volume Bi-Directional	110	Counter
Additional 24-Hour Period (Volume)	75	Counter
24-Hour Speed/Classification Data	150	Counter
Additional 24-Hour Period (Speed & Class)	90	Counter
24-Hour Classification Data	150	Counter
Additional 24-Hour Period (Class)	90	Counter
1 Person Turning Movement Count (TMC) - 2 Hour	100	Count
Additional 1-Hour Period (1 person TMC)	50	Count
2 Person Turning Movement Count (TMC) - 2 Hour	200	Count
Additional 1-Hour Period (2 person TMC)	100	Count
Other Misc Data Collection	Hourly Labor	Hour
Mileage	\$0.375	MI
Other Travel(airfare, car rental, etc.)	at cost	Trip
Deliveries	at cost	EA
Lodging	at cost	Day
Meals	at cost	Day
Miscellaneous Expenses	at cost	EA

Direct Expenses will have a 10% mark-up for billing costs.

## **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 **five hundred thousand and no/100 dollars (\$500,000)**.

**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**<sup>1</sup> that would be a party to the discretionary contract:

Pape-Dawson Engineers, Inc.

**and the name of:**

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

Civil Engineering Consultants, Inc.  
WHM Transportation Engineering Consultants  
AC Group, LLC

**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

<sup>1</sup> 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 list.		

### 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<sup>2</sup> 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		
<b>Signature:</b>  Wayne Brasington	<b>Title:</b> CFO <b>Company:</b> Pape-Dawson Engineers, Inc.	<b>Date:</b>  Dec. 22, 2004

<sup>2</sup> 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.





December 22, 2004

**DISCRETIONARY CONTRACT ETHICS STATEMENT  
PAPE-DAWSON ENGINEERS, INC.**

Political contributions of more than \$100 made during the previous twenty-four months to Council members and political action committees.

**Eugene H. Dawson, Jr.**

Jan. 2003	Carroll Schubert	\$500
July 2004	Carroll Schubert	\$500
August 2004	Carroll Schubert	\$500
November 2004	Enrique Barrera	\$500

**Samuel G. Dawson**

Jan. 2003	Carroll Schubert	\$250
March 2003	Ed Garza	\$500
May 2004	Chip Haass	\$250
August 2004	Carroll Schubert	\$500

**Officers**

May 2003	Consulting Engineers Council of Texas – PAC	\$1,800
August 2004	Consulting Engineers Council of Texas – PAC	\$1,800
Various	Candidates and Previous Council Not Holding Office	\$ 500

Pape-Dawson Engineers, Inc.

Wayne Brasington  
Chief Financial Officer

**PAPE-DAWSON ENGINEERS, INC.**

555 East Ramsey | San Antonio, Texas 78216 | Phone: 210.375.9000 | Fax: 210.375.9010 | [info@pape-dawson.com](mailto:info@pape-dawson.com)

**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:

N/A

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

PBS&J

and the name of:

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

Gonzalez, Kypuros and White, Inc., HVJ Associates, Inc., GRAM Traffic Counting, Inc.

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

<sup>1</sup> 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.

**Discretionary Contracts Disclosure**

- (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

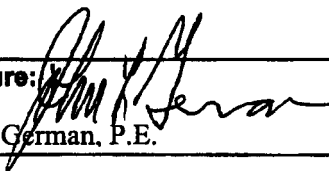
**Political Contributions**

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:
Mayor Ed Garza	\$150.00	05/03
Councilmember Patti Radle	\$165.00	05/03 (\$75); 02/04 (\$90)
Councilmember Joel Williams	\$150.00	05/03 (\$75); 07/04 (\$75)
Councilmember Chip Haass	\$150.00	05/03 (\$75); 08/04 (\$75)
Councilmember Roger Flores, Jr.	\$225.00	05/03 (\$75); 08/04 (\$75); 10/04 (\$75)

**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<sup>2</sup> 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.

		
<b>Signature:</b> John L. German, P.E.	<b>Title:</b> Vice President/District Director <b>Company:</b> PBS&J	<b>Date:</b> 12/27/04

<sup>2</sup> 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.







2.2 The term of this AGREEMENT shall commence on the eleventh (11<sup>th</sup>) 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 one (1) additional one (1) year period. The Director of Public Works shall have the authority to exercise such option at his discretion. In the event such option is 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 five hundred thousand and no/100 dollars (\$500,000).

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 6.74 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 – Traffic Engineering	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 – Traffic Engineering  
Attn: Lilly Banda  
P.O. Box 839966  
San Antonio, Texas 78283-3966

#### **If intended for CONSULTANT, to:**

PBS&J, Inc.  
8626 Tesoro Drive, Suite 804  
San Antonio, Texas 78217  
Attn: John L. German, 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.

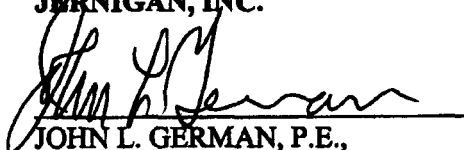
27.2 It is understood and agreed by the Parties hereto that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this AGREEMENT and that any such changes shall be automatically incorporated into this AGREEMENT without written amendment hereto, and 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  
POST, BUCKLEY, SCHUH &  
JERNIGAN, INC.**

\_\_\_\_\_  
CITY MANAGER

  
\_\_\_\_\_  
JOHN L. GERMAN, P.E.,  
VICE PRESIDENT

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
DATE

**ATTACHMENT "A"**  
**(SCOPE OF SERVICES)**

**Scope of Work**

The scope of services provided in a Work Task may include professional services required to perform investigations, measurements, data collection, report and plan preparation in connection with:

- Transportation Systems Planning;
- Land Planning/Engineering;
- Roadway Design;
- Traffic Engineering Studies to include Traffic Signal Timing Studies, Traffic Control Systems Analysis;
- Design and Implementation of Traffic Systems to include Intelligent Transportation Systems (ITS);
- ITS Control Systems Analysis;
- Traffic Operations Design;
- Design and Implementation of Signage, Pavement Marking and Channelization; and
- Bicycle and Pedestrian Facility Development.

Deliverables required as part of the traffic engineering services provided by Consultant will include, but not be limited to field investigations and measurements, data collections, existing condition evaluation, calculations, recommendations and the development of alternatives and proposed designs necessary to complete the assignment. Periodic updates documenting field observations and service status must also be provided. In the instances where locations under study provide access to area schools, businesses, churches and other public gathering places, the consultant will serve as the liaison between the City of San Antonio, stakeholders, and other interested parties as required. It will be necessary for the consultant to document all activities and contacts, as well as to prepare the following documents:

- Preliminary documents, plans, and/or reports, as directed which discuss findings and recommendations;
- Final documents, plans, and/or reports, per City requirements; and any
- Handouts and/or graphical displays for use at public meetings.

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".

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").

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.

The Consultant, in consideration for the compensation herein provided, shall render professional traffic engineering consulting services necessary for the development of the Project to final completion.



**ATTACHMENT "B"**

**(CONSULTANT'S FEE PROPOSAL/PRICE SCHEDULE)**

**PBS&J Hourly Pay Rates and Billing Rates**  
**On-Call Traffic Engineering Services Contract-City of San Antonio**

December, 2004

**Titles and Persons Assigned at That Level**

	<b>Avg. Hourly Rate**</b>	<b>Multiplier</b>	<b>Billing Rate</b>
<b>Principals and Project Manager</b>			
Project Director - John German & Clarence Daugherty	65.52	2.740	\$ 179.52
Project Manager - Rene U. Garza	55.32	3.000	\$ 165.96
<b>Engineers and EIT's</b>			
Sr Engineer III - Jose Sandoval, Keith Pyron, Roy Mynier, Jerry Ramos, Chris Bausher, Michael Penic Mike Midkiff	52.50	3.000	\$ 157.50
Sr. Engineer II - Clint Ray	46.36	3.000	\$ 139.08
Sr Engineer I -Mike Wahl, , Mounir Mejdoub	38.08	3.000	\$ 114.24
EIT II - Jason Knesek, Gerald Lankes, Janice Leatherberry, Clint Holley	31.83	3.000	\$ 95.49
EIT I -Josh Marazzini, Sophie Torres	22.50	3.000	\$ 67.50
<b>Technical Support</b>			
Sr, Designer III - Rick Lopez	38.08	3.000	\$ 114.24
Sr Designer II - Doug Hall, Bryan Garrick	31.83	3.000	\$ 95.49
Sr Designer I - Dora Rivera	27.38	3.000	\$ 82.14
CADD Tech -- San Antonio Intern TBD	18.00	3.000	\$ 54.00
Senior Field Technician- TBD	18.00	3.000	\$ 54.00
Admin and Clerical -- Jennifer Stevenson, Rachel Medellin-Solis	21.00	3.000	\$ 63.00
<b>Surveying</b>			
Senior Survey Staff -TBD	31.83	3.000	\$ 95.49
Two-Person Field Crew - TBD	105.00	1.000	\$ 105.00
Three Person Field Crew - TBD	130.00	1.000	\$ 130.00

**\*\*NOTE:** For Time and Materials Based Task Orders, the actual hourly rate for the individual will be used and the 3.15 multiplier will be utilized to calculate the billing rate except for the Project Director category. In the latter, a multiplier of 2.74 will be used.

Prepared by John L. German, P.E., Principal and Project Director. 12/17/04

[illegible]

# **HVJ Associates, Inc.**

Geotechnical, Environmental, Materials, & Pavement Engineers

## **ESTIMATED COST FOR ENGINEERING SERVICES FOR ON-CALL TRAFFIC ENGINEERING CONSULTING SERVICES CITY OF SAN ANTONIO**

2004-2005

PBS&J

Project No. 04-132PTA-0

DESCRIPTION	HVJ Employee	UNIT RATE*
<b>HVJ - ENGINEERING AND SUPPORT PERSONNEL, PER HR</b>		
Sr Engineer, P.E.	Frank Carmichael	\$125.00
Project Manager, P.E.	Linda Barlow	\$105.00
Project Engineer, P.E.	Lizan Gilbert	\$85.00
Staff Engineer, EIT	Jason Schwarz	\$75.00
Engineer Associate	Sachin Kunagalli	\$65.00
Senior Engineering Technician/ CAD Technician		\$60.00
Clerical Support		\$45.00
 <b>DIRECT COSTS</b>		
Plotting, photographs, etc.		Cost + 10%

\*Unit rates will be adjusted by 5% for year 2006

# HVJ Example Calculation of Cost for Task Orders

## ESTIMATED MANHOURS FOR ENGINEERING SERVICES TO DEVELOP OF TRAFFIC CONTROL PLANS AND OTHER DRAINAGE IMPROVEMENTS FOR RECONSTRUCTION OF JAMAR RD FROM ROSELAWN TO DEXTER Project No. 04-1077TA-0

ENGINEERING TASKS	PROJECT PRINCIPAL (CM/CC)	PROJECT ENGINEER/ MANAGER	GRADUATE ENGINEER	TOTAL HOURS	COST PER TASK	COST PER PHASE
<b>PHASE A</b>						
Plan and manage project tasks				0	\$	
Obtain and specific information regarding the proposed construction		1		1	\$ 105.00	
Coordinate construction issues related to traffic control		1		1	\$ 105.00	
Prepare Preliminary Traffic Planning for Phase A Report		1		1	\$ 105.00	\$ 315.00
<b>PHASE B</b>						
Plan and manage project tasks		1		1	\$ 105.00	
Coordinate construction issues related to traffic control		1		1	\$ 105.00	
Perform site reconnaissance		2	4	6	\$ 510.00	
Prepare preliminary Traffic Control Recommendations	1	2	6	8	\$ 765.00	
Calculate traffic control related quantities / cost			1	1	\$ 75.00	\$ 1,980.00
<b>FINAL DESIGN</b>						
Plan and manage project tasks		1		1	\$ 105.00	
Verify construction issues related to traffic control		1		1	\$ 105.00	
Address comments and Prepare final Traffic Control Plan	1	1	3	5	\$ 465.00	
Present special provision to Item 604 (if required)			1	1	\$ 75.00	
Update traffic control related quantities for bidding and include traffic control cost			1	1	\$ 75.00	\$ 915.00
<b>CONSTRUCTION PHASE</b>						
Respond to Contractor requests related to traffic control		2	2	4	\$ 360.00	\$ 360.00
<b>TOTAL HOURS</b>	2	14	18	34	\$ 3,675.00	\$ 3,675.00

125	105	75	<= rates in proposal <= rates in proposal
37.31	28.58	28.58	<= cost rate <= cost rate
74.52	400.12	514.44	<= cost amt <= cost amt
111.83	85.74	85.74	<= cost rate with 3.0 mult. <= cost rate with 3.0 mult.
223.86	1200.36	1543.32	<= cost amt with 3 <= cost amt with 3.0 mult.
2,946.271241	2,854.212736	2,726.451014	<= actual multiple <= actual multiple
			average

**Fee Schedule**  
GRAM Traffic Counting, Inc.

Title	Raw Salary Rate	Contract Rate		Contract Rate
		FY 2004	FY 2005	FY 2006
Project Manager	\$ 27.00	\$ 80.14	\$ 82.54	\$ 85.02
Assist Project Manager	\$ 25.00	\$ 74.20	\$ 76.43	\$ 78.72
Admin	\$ 11.50	\$ 34.13	\$ 35.16	\$ 36.21

Direct Costs Rates	Unit	Contract Rates
<b>Air Travel (Lowest available coach fare)</b>	<b>ROUND TRIP</b>	<b>At Cost</b>
Automobile Mileage	MILE	\$0.375
Lodging	DAY	At Cost
Meals One day trip	DAY	\$25.00
Meals Overnight stay	DAY	\$30.00
Rental Vehicle	DAY	At Cost
Misc. (Tolls, Parking, Taxi)	---	At Cost
<b>Automated Counts</b>	<b>Per Counter</b>	
Automated Volume Counts - 24 Hour	24 HR	\$180.00
Automated Volume Counts - Additional 24 Hour at same location	24 HR	\$80.00
Automated Speed Counts - 24 Hour	24 HR	\$170.00
Automated Speed Counts - Additional 24 Hour at same location	24 HR	\$80.00
Automated Classification Counts - 24 Hour	24 HR	\$170.00
Automated Classification Counts - Additional 24 Hour at same location	24 HR	\$80.00
Automated Main Lanes - 24 Hour	24 HR	\$250.00
Automated Main Lanes - Additional 24 Hour at same location	24 HR	\$125.00
<b>Field tech's</b>		
Turning Movement Count - 1 person intersection	Hourly	\$80.00
Turning Movement Count - 2 person intersection	Hourly	\$100.00
Other field data collection 1 Per. (Radar, manual studies, Travel Time Runs)	Hourly	\$85.00
Other field data collection 2 Per. (Radar, manual studies, Travel Time Runs)	Hourly	\$130.00
<b>Origin and Destination Surveys</b>		
Licenses Plate capture - per lane	12 HR ( or daylight)	\$4,100.00
Licenses Plate capture - per lane - with 36 hour delivery of data	12 HR ( or daylight)	\$5,500.00
Field Survey ( short form less than 8 questions ) 8 emps	12 HR ( or daylight)	\$5,000.00
Field Survey ( long form more than 8 questions ) 8 emps	12 HR ( or daylight)	\$8,000.00
Field Survey ( short form less than 8 questions ) 12 emps	12 HR ( or daylight)	\$8,300.00
Field Survey ( long form more than 8 questions ) 12 emps	12 HR ( or daylight)	\$7,300.00
Traffic Control Plan set up	12 HR ( or daylight)	\$3,000.00
<b>Proposed Overhead Rates:</b>		
a.) Fringe Benefit Rate of Overhead	%	37.62%
b.) General Overhead Rate	%	127.38%
Total Overhead	%	165.00%
c.) Profit	%	12.00%

## **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 five hundred thousand and no/100 dollars (\$500,000).