

**CITY OF SAN ANTONIO
DEPARTMENT OF ASSET MANAGEMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Rebecca Waldman, Director, Department of Asset Management

SUBJECT: Municipal Marketing Partnership Program

DATE: February 10, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the execution of a Professional Services Agreement with Public Enterprise Group, Inc., payment of \$30,000 for the development of an inventory of assets, Program policies and a Strategic Marketing Plan for a comprehensive and integrated Marketing Partnership Program and payment not to exceed \$10,000 for related reimbursable expenses.

Staff recommends approval.

BACKGROUND INFORMATION

Based upon criteria established in a Request for Proposals (RFP) and the scores of the evaluation team, City staff recommends to City Council that a Professional Services Agreement be executed with Public Enterprise Group, Inc. (PEG) for the development of a Municipal Marketing Partnership Program. Since 1999, when PEG was the first firm to secure a municipal beverage contract, PEG has assisted many cities, counties, school districts, and hospital systems with the development, evaluation, and execution of revenue generating partnerships. These clients include: Huntington Beach, California; Ft. Worth, Texas; King County, Washington; California State Parks Foundation; Los Angeles Unified School District; BayCare Health System, Tampa, Florida; and the New York City Health & Hospital Corporation.

PEG's strengths include: 1) a clear understanding of project scope, 2) strong internal resources to complete necessary data gathering, 3) ability to complete the Development Phase within 90 days of award, 4) experience both individually and as a team specifically in the development and implementation of Municipal Marketing Partnership Programs, 5) number of municipal clients served in addition to hospitals and school districts, and 6) the ability to provide a wide range of services from inventory of assets and plan development, to sponsor solicitation and engagement, to relationship management and revenue additions.

On October 18, 2004, the City issued a RFP to identify a Consultant experienced in the development and implementation of a Municipal Marketing Partnership Program (Program). The Program will identify opportunities and strategies that will generate cash, goods, and services for the City over a specified amount of time. The Program consists of two phases: (1) the Development Phase, and (2) the Implementation Phase. During the Development Phase, the Consultant will be responsible for the following:

- Comprehensive inventory of existing City assets
- Program policies
- Four-year Strategic Marketing Plan, to include measurable goals and objectives for the Program and a prioritized schedule for implementation
- Targeted list of national, regional, and local businesses with whom to pursue partnership opportunities

It is anticipated that the results of the Development Phase will be presented to City Council in May 2005. Based upon recommendations from the Consultant and staff, the City Council will decide if they would like to move forward in implementing the Program. The City, at its sole discretion, may elect to 1) not proceed with the Program, 2) proceed with the Implementation Phase and continue to utilize the Consultant's services, or 3) terminate the Agreement with the Consultant and proceed with the Implementation Phase on its own or with another Consultant.

If the City chooses to continue to utilize the Consultant's services for the Implementation Phase, then the Professional Services Agreement shall remain effective for a period of three (3) years from the Commencement Date of the Agreement. The City shall have the sole option to renew the Agreement for two (2) additional one (1) year periods, subject to City Council approval.

Prior to the close of the RFP on December 2, 2004, the City established an evaluation team consisting of representatives from the Departments of Asset Management, Aviation, Convention Facilities, Information Technology Services, Parks & Recreation, Purchasing, and the Convention & Visitors Bureau. Representatives from the Departments of Contract Services, Economic Development, and Finance as well as the City Attorney's Office served in an advisory capacity. The evaluation criteria established in the RFP and the points allocated to each item are outlined below:

<u>Criteria</u>	<u>Points</u>
Project Understanding / Proposed Timeline	20
Respondent's Experience / Capability	20
Project Team Qualifications	20
Evaluation of the Compensation Plan	20
Small Business Economic Development Advocacy Program (SBEDA)	20

Four firms responded to the RFP and all made presentations to the evaluation team and answered questions from team members. The evaluation team scored the proposals and presentations as follows:

<u>Firm</u>	<u>Score</u>
Public Enterprise Group, Inc.	73.30
Sports Facility Marketing Group	68.20
The Pathfinder Group	67.80
Front Row Marketing Services, LP	60.80

Details of the final scores are attached as Attachment I.

Based upon the above scores, the evaluation team determined that PEG should be recommended to the City Council. While PEG will be the sole contractor for the Development Phase, it is anticipated that PEG may utilize the following subcontractors in the performance of the Implementation Phase: Neighborhood Marketing, Ltd, Laser Printers and Mailing Services, L.L.C. and Partners Two, Inc.

POLICY ANALYSIS

Approval of this ordinance will be a continuation of City Council support for the policy of establishing guidelines for the use of City-owned property, promoting City assets, both real and intangible, and maximizing the revenue potential of such said property.

FISCAL IMPACT

Funds are available for the Development Phase of the Municipal Marketing Partnership Program within the FY 2005 Department of Asset Management budget and are authorized as follows:

\$30,000	payable to Public Enterprise Group, Inc. for professional services
\$10,000	funding not to exceed this amount for miscellaneous reimbursable expenses

Subject to City Council approval of the Program and if City chooses to utilize PEG, Inc. for the Implementation Phase, then the \$30,000 fee for the Development Phase is 100% reimbursable to the City as a deductible draw from any future commission payments to PEG for eligible partnerships. The City would determine which of the following options would be the most appropriate compensation structure for the Implementation Phase:

Option A – City pays a monthly fee of \$5000 not to exceed 12 months and 10% of revenue and budgeted cost avoidance items received from partnerships procured by consultant for the term of the partnership, or

Option B – City pays 12% of revenue and budgeted cost avoidance items received from partnerships procured by consultant for the term of the partnership.

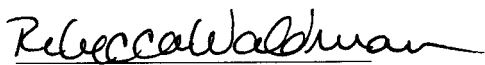
It is anticipated that this Program will begin generating revenue for the City in FY 2005/2006 and that any expenses incurred for this program will be fully recovered during the Implementation Phase.

COORDINATION


This item has been coordinated with the Departments of Aviation, Contract Services, Convention Facilities, Finance, Information Technology Services, Parks & Recreation, Purchasing, Economic Development, Convention & Visitors Bureau, and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

A Discretionary Contracts Disclosure Form is attached.



Rebecca Waldman, Director
Department of Asset Management



Erik J. Walsh
Assistant to the City Manager

City of San Antonio
Discretionary Contracts Disclosure*

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

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

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

PUBLIC ENTERPRISE GROUP, INC

and the name of:

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

and the name of:

(B) any individual or business entity that is known to be a **partner**, or a **parent** or **subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

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

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

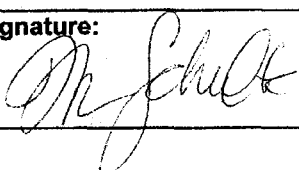
Political Contributions

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:

Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city shall disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

N/A		
Signature: 	Title: COO Company: PUBLIC ENTERPRISE GROUP, INC	Date: 12/2/04

² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

ATTACHMENT 1

Project/Program Name: Municipal Marketing Partnership Program

TOTAL SCORE

	Front Row Marketing Services	The Pathfinder Group	Public Enterprise Group	Sports Facilities Marketing Group
Project Understanding/Proposed Timeline 20 Points Max	12.9	17.6	18.4	15.1
Respondent's Experience/Capability 20 Points Max	13.0	14.4	14.9	12.6
Project Team Qualifications 20 Points Max	11.3	14.7	18.1	14.1
Evaluation of Compensation Plan 20 Points Max	19.3	15.1	13.4	17.9
Local Business Enterprise 10 Points Max	1.5	3.3	6.0	4.4
Historically Underutilized Enterprise 5 Points Max	0.8	1.7	0.5	2.1
Compliance w/SBEDA Policy 5 Points Max	2.0	1.0	2.0	2.0
TOTAL SCORE	60.8	67.8	73.3	68.2

PROFESSIONAL SERVICES AGREEMENT
FOR
MUNICIPAL MARKETING PARTNERSHIP PROGRAM

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City") acting by and through its City Manager, pursuant to Ordinance No. _____ passed and approved on the _____ day of _____, 2005 and Public Enterprise Group, Inc. by and through its Chief Operating Officer, Don Schulte (hereinafter referred to as "Consultant"), both of which may be referred to herein collectively as the "Parties".

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Consultant" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of City's Asset Management Department.

"Eligible Partnership Agreements" shall mean agreements procured directly by Consultant, excluding agreements where the sponsor initiates the contact with City and there has been no previous contact between Consultant and that sponsor on behalf of City.

II. TERM

2.1 The Municipal Marketing Partnership Program ("Program") contains two phases: (1) the development phase ("Development Phase"), and (2) the implementation phase ("Implementation Phase"). The Development Phase will begin upon award ("Commencement

Date”) and conclude upon the completion of the items outlined in section 3.2 and the acceptance of the Strategic Marketing Plan provided for in Section 3.2, below. City shall have the option to proceed with the Implementation Phase. If City chooses to utilize Consultant’s services for the Implementation Phase, then this Agreement shall remain effective for a period of three (3) years from the Commencement Date of the Agreement. City shall have the sole option to renew the contract for two (2) additional one(1)-year periods, subject to City Council approval.

2.2 If funding for the continuation of this Agreement for any fiscal year after the first fiscal year is not appropriated, City retains the right to terminate this Agreement at the expiration of each of City’s budget periods, and any subsequent contract period is contingent upon such appropriation.

III. SCOPE OF SERVICES

3.1 Consultant agrees to provide the required services described in this Article III entitled Scope of Services and as further described in Section A of Consultant’s proposal, which is attached hereto and incorporated herein as Exhibit I, in exchange for the compensation described in Article IV Compensation to Consultant. Consultant shall provide all the services outlined in Section 3.2, below, in order to develop a comprehensive Strategic Marketing Plan. In the event that City elects, subject to approval by City Council, to utilize Consultant’s services for the Implementation Phase, compensation to Consultant shall continue into the Implementation Phase, as outlined in Section 3.3, below. Should City elect not to utilize Consultant’s services for implementation, this Agreement shall terminate under the provisions of Article VII Termination.

3.2 Development Phase: Consultant shall perform the following tasks, within ninety (90) days of the Commencement Date, in conjunction with the development of the Program:

3.2.1 Develop a comprehensive inventory of existing City assets, including facilities, programs, activities, events, contracts, purchases and proposed capital improvements in order to identify potential opportunities for the Program.

3.2.2 Assist City in the development of a set of Program policies to guide the work of City during the implementation phase. Consultant will help City identify internal and community issues that should be addressed in the policy document. Program policy should show sensitivity to the ethnic, cultural, and historical uniqueness of San Antonio.

3.2.3 Develop a four year strategic marketing plan (“Strategic Plan”) to include:

- a) the establishment of measurable goals and objectives for the Program, including revenue projections and estimated expenses; and
- b) the development of strategies to maximize the benefits of identified partnership opportunities. This will include any necessary national and/or San Antonio-based research in order to identify potential partners and to help City prioritize marketing outreach efforts based on the likelihood of achieving successful partnerships.

- c) Assist staff with the presentation of the proposed Strategic Plan to City Officials, City Council, City Management Team and the media, when requested.

3.2.4 Develop a targeted list of national, regional and local businesses to pursue partnership opportunities.

3.3 Implementation Phase: Should the City elect, in its sole discretion, to utilize Consultant's services for the Implementation Phase, Consultant shall perform the following tasks:

3.3.1 Develop and implement a Program marketing plan and materials that outline the goals of the City's municipal marketing program and emphasize the potential value to corporate partners. This will include the creation, packaging and management of sales and marketing materials that outline the basic Program which can be mailed to interested organizations and used on the City's website.

3.3.2 At the direction of the City, set-up and meet with leadership of prospective partner companies to explain goals, policies, and objectives of the Program and to gather information on the company's marketing program goals and objectives, prior to any Requests for Proposals ("RFP") being issued.

3.3.3 Assist the City in the development of an RFP or Invitation for "Best Value" bids, which allow the City to maintain an open and competitive process for soliciting and securing corporate partnerships. This will also include the marketing of the RFP to any prospective respondents.

3.3.4 Assist the City with the review and evaluation of proposals received in response to potential partnership opportunities.

3.3.5 Under City's direction, conduct negotiations and develop partnership agreements. City reserves the right to reject any potential business partner or proposed marketing initiative.

3.3.6 Assist staff with the presentation of the proposed partnership agreements to City Officials, City Council, City Management Team and the media, when requested.

3.3.7 Develop a plan for managing any fulfillment obligations cost effectively and efficiently.

3.4 It is the understanding of the parties hereto that Consultant will provide advice on any potential partnership agreements that arise during the development phase. Such advice, so long as it falls within the scope of this Agreement, shall be provided free of charge.

3.5 In the event that City elects to utilize Consultant's services for the Implementation Phase, the Strategic Plan produced by Consultant shall be attached and incorporated into this

Agreement as an exhibit and City shall amend this Agreement, as provided by Section 15.1, by passage of an ordinance by the City Council, indicating City's election to use either the pricing option in Subsection 4.3.1 or the pricing option in Subsection 4.3.2.

3.6 Nothing in this Agreement shall prevent City from electing to implement all or part of the Program on its own. As provided in Section 5.1, below, City shall own the Program and, therefore, shall have the option, in its sole discretion, as to whether to use, in whole or in part, Consultant's services for implementation. City reserves the right to implement all or part of the Program with another consultant. If City elects to implement all or part of the Program on its own or with another consultant, Consultant will not be eligible for revenue sharing for such implementation.

3.7 All work performed by Consultant hereunder shall be performed to the satisfaction of the Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Consultant, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII Termination, in whole or in part, should Consultant's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay Consultant the consideration provided in this Article IV Compensation to Consultant.

4.2 City shall pay Consultant an amount not to exceed thirty thousand dollars (\$30,000.00) as compensation for the Development Phase. This amount shall be fully reimbursable in the event that City elects to utilize the Consultant's services for the Implementation Phase, as set forth in Subsection 4.2.1 below. Consultant shall be paid fifteen thousand dollars (\$15,000.00) within thirty (30) days of the Commencement Date and shall be paid the remaining fifteen thousand dollars (\$15,000.00) within thirty (30) days of final acceptance of the Strategic Plan by City.

4.2.1 Upon the City's election to proceed with utilizing Consultant's services for the Implementation Phase, as evidenced by the passage of an ordinance by the City Council, and the successful execution of the first resulting Eligible Partnership Agreement, City shall deduct the recoverable draw that totals thirty thousand dollars (\$30,000.00) in equal installments over the term of the agreement from Consultant's Commission Payments, as set forth in Subsections 4.3.1 and 4.3.2 below. In the event that the commissions due Consultant under the first Eligible Partnership Agreement do not satisfy the recoverable draw of thirty thousand dollars (\$30,000.00), City and Consultant shall mutually agree on a method for reimbursement of the full amount.

4.3 Upon City's election to utilize Consultant's services for the Implementation Phase, as evidenced by the passage of a City Council ordinance, City shall also elect to compensate Consultant in one of the following manners:

4.3.1 Monthly Fee/Revenue Sharing Structure. Under this compensation method, City shall pay Consultant a five thousand dollar (\$5,000.00) monthly retainer for a period of twelve (12) months, beginning on October 1, 2005. In addition to these retainer fees, Consultant shall be entitled to receive a commission of ten percent (10%) on total gross revenues generated by the Eligible Partnership Agreements and on budgeted cost avoidance measures realized by Eligible Partnership Agreements ("Commission Payment"). City shall pay Consultant said commission within sixty (60) days following receipt of revenues from said Eligible Partnership Agreements. If the Agreements are multi-year in nature, and payments are made annually or in installments, then Consultant shall be paid said commission within sixty (60) days after receipt of payment by City. The packaging and pricing of Eligible Partnership Agreements may be changed by City, in its sole discretion, from time to time, and Consultant shall not receive any increased commission as a result of such change, unless Consultant directly negotiated the change. Under this Subsection, budgeted cost avoidance measures shall mean procurement by Consultant of items previously included in the City's annual adopted budget. Consultant shall receive a Commission Payment for said items if and only if City would have purchased said items from another source outside the scope of this Agreement. The Commission payment for said items shall be based on the amount budgeted. The City shall not owe nor pay a Commission Payment if said items do not offset or reduce items in City's Annual Budget. Whether or not a particular item falls within the definition of budgeted cost avoidance measures shall be left to the sole discretion of City.

4.3.2 Revenue Sharing Structure. Consultant shall be entitled to receive a commission of twelve percent (12%) on total gross revenues generated by the Eligible Partnership Agreements and on budgeted cost avoidance measures realized by Eligible Partnership Agreements ("Commission Payment"). City shall pay Consultant said commission within sixty (60) days following receipt of revenues from said Eligible Partnership Agreements. If the Agreements are multi-year in nature, and payments are made annually or in installments, then Consultant shall be paid said commission within sixty (60) days after receipt of payment by City. The packaging and pricing of Eligible Partnership Agreements may be changed by City, in its sole discretion, from time to time, and Consultant shall not receive any increased commission as a result of such change, unless Consultant directly negotiated the change. Under this Subsection, budgeted cost avoidance measures shall mean procurement by Consultant of items previously included in the City's annual adopted budget. Consultant shall receive a Commission Payment for said items if and only if City would have purchased said items from another source outside the scope of this Agreement. The Commission payment for said items shall be based on the amount budgeted. The City shall not owe nor pay a Commission Payment if said items do not offset or reduce items in City's Annual Budget. Whether or not a particular item falls within the definition of budgeted cost avoidance measures shall be left to the sole discretion of City.

4.4 Reimbursable expenses. For the Development Phase of this Agreement, City will reimburse Consultant only for City requested marketing and promotional materials and reasonable travel costs in a total amount not to exceed ten thousand dollars (\$10,000.00). Travel costs must be authorized or requested by City, necessary to fulfill Consultant services, supported by appropriate documentation, and consistent with City policies and procedures related to travel. Travel costs shall include airfare, rental car and gas, parking, lodging and a per diem for meals. City will reimburse for coach airfare only and not for first class, business class, or upgrade charges. Lodging expenses will not be reimbursed at higher than the maximum lodging expenses as outlined by City's policies and procedures related to travel. Per diem rates will be allowable at the maximum established rate as outlined by City's policies and procedures. City will not reimburse Consultant for hourly personnel costs solely for travel time. No costs associated with Consultant's office(s) or business expenses not provided for in this Section will be reimbursable. All reimbursable expenses must be approved, in advance, by City. The total amount available for reimbursable expenses during the Implementation Phase, if City elects to proceed with Consultant's services, shall be determined at a later date by an amendment to this Agreement under Section 15.1.

4.5 Final acceptance of work products and services require written approval by the Director. Payment will be made to Consultant following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than Consultant, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by Consultant pursuant to the provisions of this Agreement is the exclusive property of City and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period")

from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Consultant to return said documents to City prior to or at the conclusion of said retention.

6.3 Consultant shall notify City immediately in the event Consultant receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Consultant understands and agrees that City will process and handle all such requests. Consultant shall not, under any circumstances, release any records created during the course of performance of this Agreement to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.

6.4 In accordance herewith, Consultant shall comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

6.5 Public Statements. Consultant shall not issue nor cause the issuance of any public statement regarding its services under this Agreement without the City's prior approval.

6.6 Public Release of Information. Consultant shall not release any information concerning the services provided under this Agreement or the Program without City's prior approval.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term, as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon thirty (30) calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of the following event, which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XI Assignment and Subcontracting, below.

7.4 Defaults With Opportunity for Cure. Should Consultant default in the performance of this Agreement in a manner stated in this Section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Consultant shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII Notice, to cure such default. If Consultant fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another consultant to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

- 7.4.1 Failure to comply with the terms and conditions stated in Article XIII SBEDA.
- 7.4.2 Bankruptcy or selling substantially all of company's assets
- 7.4.3 Failing to perform or failing to comply with any covenant herein required
- 7.4.4 Performing unsatisfactorily

7.5 City's Election to Terminate after Development Phase. In the event that City elects not to utilize Consultant's services during the Implementation Phase of the Program and to exercise its right to terminate this Agreement after the Development Phase, as provided in Section 3.1, this Agreement shall terminate upon written notice to Consultant, which notice shall be provided in accordance with Article VIII Notice, as of the date provided in said notice.

7.6 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.

7.7 Regardless of how this Agreement is terminated, 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, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Consultant, or provided to Consultant, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Consultant in accordance with Article VI Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City 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, if requested.

7.8 Within forty-five (45) calendar days of the effective date of 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.

7.9 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.

7.10 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.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, 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 three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

Mailing Address:

City of San Antonio, Attn: Director
Asset Management Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address:

City of San Antonio, Attn: Department of Asset Management
114 W. Commerce
2nd floor, Municipal Plaza
San Antonio, Texas 78205

With a copy to:

Mailing Address:

City Clerk's Office
P.O. Box 839966
San Antonio, Texas 78283-3966

Physical Address:

City Clerk's Office, Attn: Department of Asset Management
100 Military Plaza
2nd floor, City Hall
San Antonio, Texas 78205

If intended for Consultant, to:

Public Enterprise Group, Inc.
Attn: Don Schulte
101 Main Street
Huntington Beach, California 92648

IX. INSURANCE

9.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish an original completed Certificate(s) of Insurance to the City's Asset Management Department and City Clerk's Office, and which shall be clearly labeled "Municipal Marketing Partnership Program" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed 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(s) or form 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 the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to City's Asset Management Department and the Clerk's Office, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

9.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance will City allow modification whereupon City may incur increased risk.

9.3 A Consultant's financial integrity is of interest to the City; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the 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, by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

1. 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 act, malpractice, error or omission in professional services.
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9.4 The 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 the City, and may

require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies. 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 Section 9.6 herein within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes.

9.5 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 the City and its officers, employees, volunteers, and elected representatives as additional insureds as respects operations and activities of, or on behalf of, the named insured performed under contract with the 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 the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

9.6 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 the 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. Such notice must be accompanied by a replacement Certificate of Insurance. Notices shall be sent to City as follows:

City of San Antonio
Asset Management Department
P.O. Box 839966
San Antonio, Texas 78283-3966

City of San Antonio
City Clerk's Office
P.O. Box 839966
San Antonio, Texas 78283-3966

9.7 If Consultant fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the City may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement; however, procuring of said insurance by the City is an alternative to other remedies the 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 the 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, the 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.

9.8 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.

9.9 It is agreed that Consultant's insurance shall be deemed primary with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

X. INDEMNIFICATION

10.1 CONSULTANT covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to CONSULTANT's activities under this AGREEMENT, including any acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor 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, all without however, waiving any governmental immunity available to CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS AGREEMENT. The provisions of this INDEMNITY 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. 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 and shall see to the investigation and defense of such claim or demand at CONSULTANT's cost. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph.

10.2 It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by CONSULTANT to INDEMNIFY, PROTECT and HOLD HARMLESS, CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of CITY is the sole cause of the resultant injury, death, or damage. CONSULTANT further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation

brought against CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

10.3 The provisions of this INDEMNIFICATION 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.

10.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by CONSULTANT in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. CONSULTANT shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If CONSULTANT fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and CONSULTANT shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

10.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker's compensation or other employee benefit acts.

XI. ASSIGNMENT AND SUBCONTRACTING

11.1 Consultant shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

11.2 It is City's understanding and this Agreement is made in reliance thereon, that Consultant intends to use the following subcontractors in the performance of the Implementation Phase of this Agreement, should City elect to utilize Consultant's services for the Implementation Phase: Neighborhood Marketing, Ltd, Laser Printers and Mailing Services, L.L.C. and Partners Two, Inc. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions, requires the approval of Director and the Director of the Economic Development.

11.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Consultant. City shall in no event be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of fees.

11.4 Except as otherwise stated 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 the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, 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.

11.5 Any attempt to transfer, pledge or otherwise assign 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, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Consultant shall thereupon cease and terminate, in accordance with Article VII Termination, 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.

XII. INDEPENDENT CONTRACTOR

12.1 Consultant covenants and agrees that he or she 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, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Consultant. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under this Agreement and that the Consultant has no authority to bind the City.

XIII. SBEDA

13.1 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"), African American ("AABE"), 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 the City. This policy and its implementation are known as the Small, Business Economic Development Advocacy Program (hereinafter referred to as "SBEDA Program").

13.2 Consultant shall implement the plan (hereafter "SBEDA plan") submitted with its proposal under the SBEDA Program for Small, African American, Minority and Women-owned Business Participation in this Agreement, thereby meeting the percentages for participation of those groups as submitted in its proposal. Consultant's SBEDA plan, as submitted with Consultant's proposal, is attached hereto and incorporated herein by reference as Exhibit II. In

the event that City elects to utilize Consultant's services to undertake the Implementation Phase of this Agreement, as specified in Section 3.3, City and Consultant shall work together to complete a revised SBEDA plan within thirty (30) days of the passage of a City Council ordinance authorizing Consultant to provide services for the Implementation Phase. Upon completion, said revised SBEDA plan shall be attached to this Agreement and incorporated herein as an exhibit. Consultant shall be in full compliance with this Article by meeting the percentages listed in its proposal no later than 60 days from the date of execution of this Agreement, and shall 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, which will meet the percentages submitted in its proposal.

13.3 Consultant shall maintain records showing all contracts, subcontracts, and supplier awards to SBE/MBE/AABE/WBE's. 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 15 calendar days after notice of non-compliance 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, for which this Agreement may be terminated in accordance with Article VII Termination.

13.4 In all events, Consultant shall comply with the City's Small Business Economic Development Advocacy Program, contained in San Antonio Ordinance No. 96754, and the amendments thereto. Said ordinances are incorporated herein for all purposes, as if fully set forth herein.

XIV. CONFLICT OF INTEREST

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 Part B, Section 10 of 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 the 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 Pursuant to the subsection above, 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. AMENDMENTS

15.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

XVI. SEVERABILITY

16.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVII. LICENSES/CERTIFICATIONS

17.1 Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XVIII. COMPLIANCE

18.1 Consultant shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Agreement, 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 City Council, as described in Article XV Amendments. 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.

XX. LAW APPLICABLE

20.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

20.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXI. LEGAL AUTHORITY

21.1 The signer of this Agreement for Consultant represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Consultant and to bind Consultant to all of the terms, conditions, provisions and obligations herein contained.

XXII. PARTIES BOUND

22.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIII. CAPTIONS

23.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XIV. INCORPORATION OF EXHIBITS

24.1 Each of the exhibits listed below is an essential part of the Agreement and governs the rights and duties of the parties. In any conflict between the terms of this Agreement and any attached exhibits, this Agreement shall take precedence.

XXV. ENTIRE AGREEMENT

25.1 This Agreement, together with its authorizing ordinance and its exhibits, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XV Amendments.

EXECUTED and **AGREED** to this the _____ day of _____, 2005.

CITY:
CITY OF SAN ANTONIO

Interim City Manager

CONSULTANT:
PUBLIC ENTERPRISE GROUP, INC



Don Schulte
Chief Operating Officer

ATTEST:

Approved as to Form:

City Clerk

City Attorney

Exhibit I: Section A of Consultant's Proposal
Exhibit II: Consultant's SBEDA plan

We hereby propose that **PUBLIC ENTERPRISE GROUP, INC.**, or simply PEG, be appointed to serve as the Consultant and Agent for the City of San Antonio, Texas, ("City") for the purpose of assisting the City to successfully negotiate and ratify marketing partnership agreements. This proposal responds to the City's request for PEG's proposal for this assignment.

SECTION A: PROJECT UNDERSTANDING/ PROPOSED TIMELINE

PEG is an employee-owned Type C California corporation formed on September 22, 1999 with the sole mission of creating mutually beneficial business arrangements between corporations and governing bodies and institutions. PEG has its headquarters office at 101 Main Street, Suite 240, Huntington Beach, California 92648. PEG's Website is located at www.publicenterprise.com. PEG uses the experience and resources of its owners, plus their extensive networks of associates, to arrange profitable marketing relationships. The accomplishments of PEG's principals range from planning and managing multi-million dollar national marketing and sales campaigns to local promotional programs. Most of their successes have involved Fortune 500 companies as partners. PEG qualifies as a woman-owned and as a minority-owned firm. We are also certified as a small business enterprise (SBE) with the City of San Antonio, Texas.

Project Summary – In contrast with the fractional marketing efforts of most other cities the City of San Antonio intends to develop and implement a *comprehensive program*, which includes sponsorships and marketing partnerships in selected categories. We understand the City desires the services of a consultant to assist in the development of the program, and to provide experience in marketing the program.

The ultimate objective of PEG's efforts will be to generate substantial and consistently increasing revenue for the City throughout the term of the contracts PEG helps the City to conclude. We will do this by defining appropriate marketing partners for each revenue-generating category; then packaging and presenting the City's assets to selected companies; and assisting in negotiation of long term mutually beneficial contractual agreements.

This program may include the following categories: soft drink marketing, snack vending, telecommunications, direct mail, signage, banking, commercial concessions, and other novel areas as well. We understand that:

- Given that these may be the first programs of their kind, each such pioneer program will need to be undertaken cautiously, carefully, and thoughtfully, with great consideration given to public sensitivities.
- It is to be an overall effort developed systematically with City staff and implemented with approval of the City Council — with approvals possibly as detailed as to require approval of each individual action.
- The effort must adhere to a disciplined schedule of work in its development.

For more explicit reference to the primary categories that PEG will propose for the City's consideration as revenue targets, see Appendix at the rear of this proposal.

Work Plan- PEG will conduct its work in a series of phases. These phases will be as follows:

Development Phase

PHASE I: Analyze the Revenue Potential

Target Timeline: 3 Months

Task: Asset Analysis

PEG will meet with designated San Antonio departments in order to develop and submit an audit inventory list and a prospective partner target list. This process will assist PEG to better gauge the size of City's revenue opportunities. In addition PEG will review all current contracts and assist the City in the development of a set of program policies to guide the work of the City in pursuit of partnerships.

Additionally, PEG will direct a creative "Blue Sky" session to be conducted with San Antonio staff as respondents. With their deep knowledge of San Antonio, staffers are certain to have important and useful ideas as to how to generate more revenue. The "Blue Sky" session will also have an additional favorable result, in making the participating Staff more receptive to, and supportive of, the City's efforts to increase its revenue returns. Knowledge from this session will aid in analyzing and prioritizing the partnership categories.

Key Steps

- Meet with departmental representatives and designated San Antonio staffers
- Gather and review all current contracts and related policies and procedures
- Conduct a creative "Blue Sky" session with key Staffers to gather unique revenue generating ideas specific to their respective departments.

- Site Visitation/Inventory Assets: PEG staff will inspect and evaluate City facilities in search of assets offering promising marketing opportunities

PEG Work Product

1. Creative Session Report

PHASE II: Develop Marketing Plan

Target Timeline: 1 Month

Task: Development of San Antonio' Strategic Marketing Plan

Based on the work completed in Phase I a four year Strategic Marketing Plan will be developed defining potential categories and outlining the benefits and policy considerations. The plan will include an inventory of existing assets and projections for revenue generating opportunities for top categories.

Key Steps

- Create a four year Strategic Marketing Plan
- Develop and prioritize partnership categories
- Define program policies and procedures
- Develop prospective partner target lists which includes national, regional, and local businesses, for each category of interest

PEG Work Products

1. San Antonio Strategic Marketing Plan
2. Target Partner list

Implementation Phase

PHASE III: Packaging Top Prospects

Target Timeline: 2 Months

Task: Development of Marketing Packages

In concert and with the approval of City officials, PEG will help develop the top product and partnership categories. PEG will develop a Corporate Partnership Package for each designated category that reflects an agreed-on price/value strategy, and includes the customized rights and benefits for each category.

Next we will guide the City in formulation of category specific Request for Proposals or Invitation for “Best Value” bids. Also included is the management of the RFP/ bid process, allowing the City to select opportunities that meet their marketing needs and confirm the ability of the City to deliver prospects requests.

Key Steps

- Develop top sponsorship category specification packages
- Develop a customized RFP for each category
- Develop sales and marketing collateral materials
- Presentation to City Staff of category packages, RFP forms, and collateral materials

PEG Work Products

1. Category specific RFP/ bid forms
2. Collateral sales materials and presentations
3. Staff and Officials authorization to go to market

Phase IV. Solicitation of Sponsorships

Target Timeline: 2 Months

Task: Partnership Sales and Service

PEG will initiate a multilevel marketing sales campaign for priority prospects. For some potential partnership arrangements there may be opportunities to have several companies compete. We will conduct presentations at multiple executive levels within the corporate structure and escort the prospects on site visitations. PEG will provide them with all of the necessary information and education to get a clear understanding of the assets that San Antonio is offering in exchange for the opportunity to promote their brand, product and service marketing plans.

Next we will deliver the designated RFP/ bids to qualified prospects and guide them through the RFP process. PEG will manage all phases of negotiation with one or more corporate partner. Prior to submission of their proposals, PEG will repeatedly contact and encourage participating prospects to compete aggressively in bidding against their leading business rivals. PEG shall obtain and evaluate offers from each prospect indicating the willingness to enter into a partnership agreement with the City.

Key Steps

- Present marketing packages to priority prospects at national, regional and local levels
- Educate key prospects regarding the opportunity
- Conduct site visitations with each qualified prospect
- Manage the RFP process

PEG Work Products

1. RFP presentations by priority prospects to Staff

2. RFP Evaluation forms

PHASE V: Negotiation, Selection, and Final Contract

Target Timeline: TBD (Based on Municipal Approval)

Task: Negotiation with top Prospects, Selection of Sponsor/Partner, Final Contracts

PEG will provide City with an Evaluation Report comparing the benefits offered by each prospect. We will organize negotiation meetings between Staff and prospects and monitor and advise throughout the selection process. PEG will meet with Staff to review their bids, analyze the content and make recommendations for prospect selections. Given preliminary Staff agreement to the selected prospects, PEG will organize presentations of the proposal by the recommended prospects to City Staff.

Upon selection of a marketing partner their offer will be referred to the City Legal Department to complete final stages of a formal agreement. The agreement shall be presented to the City Staff for approval.

Key Steps

- Promote high bids through continuous communication with prospects
- Meet with Staff to evaluate prospect offers
- Organize negotiation meetings
- Advise City throughout the selection process
- Work with City Legal Department to develop Corporate Partnership Marketing Contract

PEG Work Products

1. Qualified prospect offers

2. Evaluation Report
3. Final Contracts from new partners

PHASE VI: Implementation of Program

Target Timeline: Ongoing

Task: Implement New Sponsorship/ Partnership Opportunity

Once a final contract has been signed PEG will oversee the roll-out of the new program. PEG will develop performance evaluation materials and committees to oversee the successful implementation of the new program.

PEG will take the lead in managing and monitoring the relationship between the City of San Antonio and the Marketing Partner to insure both compliance and satisfaction are achieved. PEG will provide progress reports on sales activity for new marketing relationships.

Key Steps

- Manage Roll-out
- Develop a communication structure between Client and Vendor
- Develop a Process to review performance
- Ongoing Customer Service to ensure both parties continue to benefit from partner relationship

PEG Work Products

1. Implementation of Program
2. Evaluation Forms and Reports
3. Review Committee
4. Ongoing Customer Service

PROJECT NAME: MUNICIPAL MARKETING PARTNERSHIP PROGRAM

1. Indicate all MBE-WBE-AABE-SBE subcontractors proposed for this contract. (Use additional sheets as needed.)

[illegible]

Only companies certified as MBE, WBE, AABE, or SBE by the City of San Antonio or its certifying organization can be applied towards the contracting goals. All MBE-WBE-AABE-SBE subcontractors must submit a copy of certification certificate through the Prime Contractor. Proof of certification must be attached to this form. If a subcontractor is not certified, please call the Small Business Outreach Division at (210) 207-3900 for information and details and how subcontractors can obtain certification.

It is understood and agreed that, if awarded a contract by the City of San Antonio, the Contractor will not make additions, deletions, or substitutions to this certified list without consent of the Director of Economic Development and Director of the appropriate contracting department (through the submittal of the Request for Approval of Change to Affirmed List of Subcontractors form).

NOTE: If MBE-WBE-AABE-SBE contracting goals were met, skip to #9.

2. If MBE-WBE-AABE-SBE contracting goals were not achieved in a percentage that equals or exceeds the City's goals, please give explanation.

EITHER NO RESPONSE WAS RECEIVED, RESPONSE WAS INCOMPLETE, THE BIDDER WAS NOT QUALIFIED. PUBLIC ENTERPRISE GROUP, INC. IS A CERTIFIED SMALL BUSINESS ENTERPRISE, THEREFORE IF WE SUBCONTRACTED OUT WORK AT THE PROPOSED LEVEL WE COULD NOT SUSTAIN A REASONABLE COMMISSION RATE FROM THIS ACCOUNT. ALL EFFORTS WILL BE MADE TO SUBCONTRACT WORK WITH LOCAL MINORITIES WHERE FEASIBLE

3. List all MBE-WBE-AABE-SBE Listings or Directories utilized to solicit participation.

WE REACHED OUT TO THE FOLLOWING:

SOUTH CENTRAL REGIONAL CERTIFICATION AGENCY
SMALL BUSINESS OUTREACH OFFICE OF ECONOMIC DEVELOPMENT
DEPARTMENT (CITY OF SAN ANTONIO)

4. List all contractor associations and other associations solicited for MBE-WBE-AABE-SBE referrals.

N/A

5. Discuss all efforts aimed at utilizing MBE-WBE-AABE-SBEs.

PHONED MANY COMPANIES LISTED ON SOUTH CENTRAL REGIONAL CERTIFICATION AGENCY WEB SITE. DISCUSSED WITH PROSPECTIVE SUB CONTRACTORS DESCRIPTION OF CONTRACT WITH CITY, TERMS OF AGREEMENT, BACKGROUND INFORMATION OF SUB CONTRACTOR, AND TIMELINE

6. Indicate advertisement mediums used for soliciting bids from MBE-WBE-AABE-SBE s.

N/A

Good Faith Effort Plan

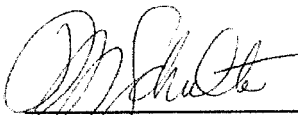
7. List all MBE-WBE-AABE-SBE bids received but rejected. (Use additional sheets as needed.)

COMPANY NAME	MBE-WBE-AABE-SBE CERTIFICATION NUMBER	HUE (Y/N)	REASON FOR REJECTION
DIOR DIRECT, INC.	203-01-3020	Y	ONLY OFFERED PARTIAL SERVICES
STRATEGIC ORGANIZATIONAL CONSULTING	—	—	SERVICES ALREADY PROVIDED BY PUBLIC ENTERPRISE GROUP

8. Please attach a copy of your company's MBE-WBE-AABE-SBE policy.
9. Name and phone number of person appointed to coordinate and administer the Good Faith Efforts of your company on this project.

DON SCHULTE - 714-374-3330

10. This Good Faith Effort Plan is subject to the Economic Development Department's approval.



SIGNATURE OF AUTHORIZED OFFICIAL

COO

TITLE OF OFFICIAL

December 1, 2004 714-374-3330

DATE

PHONE

Good Faith Effort Plan

FOR CITY USE

Plan Reviewed By: _____

Recommendation: Approval _____ Denial _____

Action Taken: Approved _____ Denied _____

DIRECTOR OF ECONOMIC DEVELOPMENT



SCTRCA

**Small, Minority, Women Business Enterprise
(S/M/WBE) Program**

Public Enterprise Group, Inc.

has filed the appropriate affidavit with the South Central Texas Regional Certification Agency (SCTRCA) and is hereby certified, in accordance with SCTRCA Policies and Procedures, as a:

SBE

This Certification Certificate must be updated by submission of a Certification Affidavit. You are required to notify the SCTRCA within 30 days of any change in circumstances affecting your ability to meet size requirements and any material changes in the information provided in the submission of the business' application for certification.

CERTIFICATE EXPIRES: 11/30/2007 CERTIFICATION NO.: 204-11-5568

Certified in the following work categories:
North American Industry Classification System (NAICS) code(s):

541613 Marketing Consulting Services

**Bridget Negrón Booth
EXECUTIVE DIRECTOR**



SCTRCA

**Small, Minority, Women Business Enterprise
(S/M/WBE) Program**

NEIGHBORHOOD MARKETING, LTD.

dba Name

has filed the appropriate affidavit with the South Central Texas Regional Certification Agency (SCTRCA) and is hereby certified, in accordance with SCTRCA Standards, as a
SBE

This Certification Certificate must be updated bi-annually by submission of a Certification Affidavit. You are required to notify the SCTRCA within 30 days of any change in circumstances affecting your ability to meet size requirements and any material changes in the information provided in the submission of the business' application for SBE certification.

CERTIFICATE EXPIRES: 04/24/2005

CERTIFICATION NO.: 203-04-3197

Certified in the following work categories:
North American Industry Classification System (NAICS) code(s):

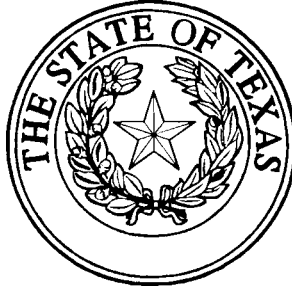
54186

Direct Mail Advertising

**BENJAMIN SUMPTER II
EXECUTIVE DIRECTOR**

State of Texas

Historically Underutilized Business Certification and Compliance Program



The Texas Building & Procurement Commission (TBPC),
hereby certifies that

PARTNERS TWO INCORPORATED

has successfully met the established requirements of the
State of Texas Historically Underutilized Business (HUB)
Certification and Compliance Program to be recognized as a HUB.

This certificate, printed 02-MAY-2003, supersedes any registration and certificate previously issued by the TBPC's HUB Certification and Compliance Program. If there are any changes regarding the information (i.e., business structure, ownership, day-to-day management, operational control, addresses, phone and fax numbers or authorized signatures) provided in the submission of the business' application for registration/certification as a HUB, you must immediately (within 30 days of such changes) notify the TBPC's HUB program in writing. The Commission reserves the right to conduct a compliance review at any time to confirm HUB eligibility. HUB certification may be suspended or revoked upon findings of ineligibility.

Paul A. Gibson

Certificate/VID Number: 1741675905202
File/Vendor Number: 08108
Approval Date: 07-JAN-2002
Expiration Date: 07-JAN-2006

Paul A. Gibson
HUB Certification & Compliance Supervisor
Texas Building & Procurement Commission
(512) 305-9071

Note: In order for State agencies and institutions of higher education (universities) to be credited for utilizing this business as a HUB, they must award payment under the Certificate/VID Number identified above. Agencies and universities are encouraged to validate HUB certification prior to issuing a notice of award by accessing the Internet (<http://www.tbpc.state.tx.us>) or by contacting the TBPC's HUB Certification and Compliance Program at (888) 863-5881 or (512) 463-5872.



SCTRCA

**Small, Minority, Women Business Enterprise
(S/M/WBE) Program**

Laser Printers and Mailing Services, LLC

has filed the appropriate affidavit with the South Central Texas Regional Certification Agency (SCTRCA) and is hereby certified in accordance with SCTRCA Policies and Procedures, as a:

SBE MBE

This Certification Certificate must be updated by submission of a Compliance Affidavit. You are required to notify the SCTRCA within 30 days of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements and any material change in the information provided in the submission of the business' application for certification.

CERTIFICATE EXPIRES: 07/14/2007 CERTIFICATION NO.: 204-07-1947

Certified in the following work categories:
North American Industry Classification System (NAICS) code(s):

561499	Business Support Services
541860	Direct Mail Advertising
323119	Other Commercial Printing

**Bridget Negrón Booth
EXECUTIVE DIRECTOR**



SCTRCA

**Small, Minority, Women Business Enterprise
(S/M/WBE) Program**

Door Direct, Inc.

dba Name

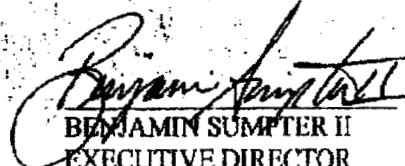
has filed the appropriate affidavit with the South Central Texas Regional Certification Agency (SCTRCA) and is hereby certified, in accordance with SCTRCA Standards, as a
SBE

This Certification Certificate must be updated bi-annually by submission of a Certification Affidavit. You are required to notify the SCTRCA within 30 days of any change in circumstances affecting your ability to meet size requirements and any material changes in the information provided in the submission of the business' application for SBE certification.

CERTIFICATE EXPIRES: **01/07/2005** CERTIFICATION NO.: **203-01-3020**

Certified in the following work categories:
North American Industry Classification System (NAICS) code(s):

54186 Direct Mail Advertising


BENJAMIN SUMPTER II
EXECUTIVE DIRECTOR