

CONSENT AGENDA
ITEM NO. 23

**CITY OF SAN ANTONIO
CONVENTION FACILITIES DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Michael J. Sawaya, Convention Facilities Director

SUBJECT: Agreement for Audio/Visual Services

DATE: June 16, 2005

SUMMARY AND RECOMMENDATIONS

An Ordinance authorizing the Interim City Manager to execute an Agreement for Audio/Visual Services with Audio Visual Services Group, Inc. (DBA) Audiovisual Headquarters ("AVHQ") to become the preferred audio/visual service provider at the Henry B. Gonzalez Convention Center ("Center"), the Lila Cockrell Theatre ("Theatre") and the Municipal Auditorium ("Auditorium") (collectively the "Facilities"), for an initial term of three (3) years beginning thirty (30) days from authorization by City Council and including an option for the City to renew the term for an additional two (2) years and authorizing the revision of "Rental Policies" established through Ordinances 76465, 88496, 90500, 93084, and 99745 dated September 16, 2004, to remove the provisions regarding complimentary microphones which are currently provided in conjunction with bookings at the Facilities.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

Currently, audio/visual services are provided through a combination of: 1) in-house audio staff that operate, monitor, and maintain the permanent house sound systems and provide the one (1) complimentary microphone for all leased meeting room areas within the Henry B. Gonzalez Convention Center (Center), the Lila Cockrell Theatre (Theatre), and the Municipal Auditorium (Auditorium); 2) in-house audio staff that operate and maintain the Theatre and Auditorium audio/lighting/fly systems and provide three (3) complimentary microphones; and 3) authorized outside audio/visual contractors who are given, for a fee, the ability to patch into house sound systems for the purpose of providing additional audio/visual services to clients who have leased space to hold events in the Facilities. In-house staff is required to be on-site anytime the Facilities' systems are being utilized. The provision of complimentary microphones is authorized by Ordinance # 99745 dated September 16, 2004. Under these current practices the City: 1) is required to maintain and update an audio/visual inventory to meet the requirement for complimentary microphones; 2) is required to maintain staff commensurate with these requirements; and 3) does not realize any revenue from the work done by outside audio/visual contractors for clients of the Facilities.

Nationally, similar convention center venues have adopted preferred audio/visual service provider arrangements to enhance client services through higher levels of coordination and also as a means to capture additional revenue potential for the owners. Under these types of agreements, audio/visual service providers agree to pay the facility owners a percentage of their revenue from services provided in exchange for being named the preferred provider by the owner. Additional consideration typically includes having advance access to the facility's event schedule and occupying office/storage space within the facility. Similar facilities utilize the preferred audio/visual service provider model (rather than an exclusive agreement) because some clients have exclusive arrangements with other providers.

The City issued a Request for Proposals (RFP) for Preferred Audio/Visual Service Provider on February 13. The RFP was advertised on TVSA and in the San Antonio Express-News. In addition, direct e-mails were sent to 13 known audio/visual services providers to solicit their interest in responding. A Pre-Proposal Conference was held on February 25. Thirteen attendees represented nine firms. Proposals were due on March 15. One was received from AVHQ. An evaluation committee, including staff from the Convention and Visitors Bureau (CVB), Convention Facilities Department, and the Economic Development Department, met to consider the AVHQ proposal in accordance with the RFP's evaluation criteria:

1. Services and Inventory (20%)
2. Financial Considerations (30%)
3. Qualifications and Experience (30%)
4. Small Business Program (20%)

After initial review of the proposal, AVHQ was interviewed. AVHQ has been in business for over 40 years and currently provides similar preferred audio/visual services to fifteen convention facilities nationwide including nine (9) that are owned by public entities or municipalities. The evaluation committee determined that AVHQ should be recommended to the City Council for consideration based on the following strengths of the firm and their proposal:

1. providing basic audio/visual services to clients of the Facilities through unlimited access to state-of-the-art audio/visual inventory owned and updated as necessary by AVHQ (\$15.5 million of which is warehoused in Texas) or leased by AVHQ to meet specialized client requirements;
2. providing a menu of enhanced services (which include meeting, event, exhibitor, computer, creative, rigging and virtual speaker services) that make contracting with AVHQ an attractive alternative for clients that might otherwise need to source the enhanced services through multiple providers;
3. offering to make the enhanced services subject to the revenue provisions of the Agreement;
4. capturing potential sales through proprietary sales management software, up-selling techniques and the opportunities for related sales of enhanced services;
5. deploying well defined marketing strategies which include customized advertising for the San Antonio market, customized websites for the Facilities, and coordination of AVHQ and Facilities collateral materials to achieve a integrated look;
6. participating with the CVB and the Convention Facilities Department on exhibition trips
7. providing staff and complimentary audio/visual support to the Convention Facilities Department in sales meetings with clients;
8. including a very detailed process for a smooth transition into the Facilities as the preferred provider and requesting a reasonable amount of space within the Center (1500 SF) to be dedicated to AVHQ use;
9. committing to three full-time, professional staff members in marketing, management, and technical positions, to be on-site at the Facilities during all normal operating hours and as needed at other times.

AVHQ has signed an Agreement and it is included as Attachment I.

POLICY ANALYSIS

This action is consistent with policies relating to the provision of excellent customer service and maximizing revenue potential within the Facilities. The proposed Agreement will also allow the Convention Facilities Department to further streamline its operations and avoid the need to keep, maintain, and update a costly audio/visual inventory.

With respect to the complimentary microphone policy, the recommended revision will allow AVHQ to remain competitive in the market and increase their share of business with clients booked at the Facilities. As a result, the City's revenue earning potential under the Agreement will also be enhanced without negatively impacting clients of the facilities.

FISCAL IMPACT

The City and AVHQ have negotiated a commission structure that will, if approved, provide the City with revenue based on a percentage of AVHQ's gross billings on all events held at the Facilities. Commission payments, for the prior month's gross billings, will be made monthly on or before the 20th day of each following month. The commission structure is as follows:

Year 1	10%	Proj. Commission	\$50,000
Year 2	10%	Proj. Commission	\$60,000
Year 3	15%	Proj. Commission	\$70,000
Year 4 (If Renewed)	Not Less Than 20%	Proj. Commission	\$160,000
Year 5	Not Less than 20%	Proj. Commission	\$200,000
Pre-Booked Events	5%	Proj. Commission	\$25,250

This commission structure is nationally competitive to other like facilities. Pre-Booked Events are defined in the Agreement as any business for which AVHQ has fully executed contracts with clients of the Facilities prior to May 27, 2005. An agreed upon list of Pre-Booked Events, which has been confirmed by the Convention Facilities Department, is included in the Agreement as Exhibit "E". The list includes 4 events with projected Gross Billings of \$405,000.

In addition to the commission, the City and AVHQ have agreed to review financial performance at the end of Year 1 of the Agreement and to establish a Minimum Annual Guarantee (MAG) based on those results, existing bookings, and projected Gross Billings through the remainder of the Agreement term. Should actual Gross Billings yield commission payments less than the agreed upon MAG in Years 2 and 3 then the MAG would be paid.

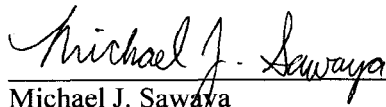
Since January 2000, AVHQ has billed approximately \$3.2 million for services they provided at the Facilities. Based on becoming the preferred provider and their Pre-Booked Events in the Facilities, AVHQ has projected Gross Billings of \$1.8 million during the initial term of the Agreement and an additional \$1.8 million in Years 4 and 5, if the renewal option is exercised.

COORDINATION

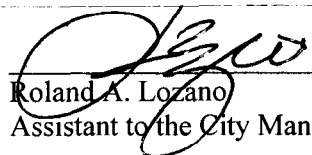
This action has been coordinated with the City Attorney's Office, Contract Services Department, Convention and Visitors Bureau, Economic Development Department, Risk Management, and the Office of Management and Budget.

SUPPLEMENTARY COMMENTS

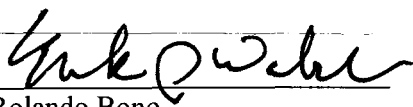
The required Discretionary Contracts Disclosure form is included as Attachment II.



Michael J. Sawaya
Convention Facilities Director



Roland A. Lozano
Assistant to the City Manager


+ J. Rolando Bono
Interim City Manager

STATE OF TEXAS

COUNTY OF BEXAR

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**AGREEMENT FOR
AUDIO/VISUAL SERVICES**

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 Interim City Manager, pursuant to Ordinance No. _____ passed and approved on the ___ day of _____, 2005 and Audio Visual Services Group d/b/a Audiovisual Headquarters, a Delaware corporation, by and through its President (hereinafter referred to as "PROVIDER"), both of which may be referred to herein collectively as the "Parties."

WHEREAS, the CITY owns Convention Facilities known individually as the Henry B. Gonzalez Convention Center, Lila Cockrell Theatre and Municipal Auditorium (hereinafter referred to as the "Facilities"), and sought, through a competitive bid process, to appoint a Preferred Audio/Visual Service Provider for events held at the Facilities; and

WHEREAS, PROVIDER submitted a proposal to CITY to provide such services, including a financial proposal to compensate CITY for the non-exclusive right to be designated as the Preferred Audio/Visual Service Provider; and

WHEREAS, 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:

"Audio/Visual Services" shall mean audiovisual rentals, meeting services, event services, exhibitor services, computer services, creative services, rigging services, and virtual speaker services offered to a Client of the Facilities by Provider.

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

"Client of the Facilities" shall mean an individual, entity, group, association and/or organization who have entered into an agreement with CITY for the use of the Facilities.

"Department" shall mean the Convention Facilities Department of the City of San Antonio.

"Director" shall mean the director of CITY's Convention Facilities Department.

"Event Schedule" shall mean a list of events scheduled to take place during the term of this Agreement and related information concerning size of event, type of event, and contact

information for Clients of the Facilities that CITY will regularly provide to PROVIDER to facilitate PROVIDER's marketing and promotion efforts.

"Facilities" shall mean the Henry B. Gonzalez Convention Center, Lila Cockrell Theatre and Municipal Auditorium.

"Gross Billings" are defined as the total of all amounts billed for Provider's provision of Audio/Visual Services, whether collected by the Preferred Audio/Visual Service Provider or not, including all labor, provided at the Facilities during the Contract term, but excluding amounts on account of sales tax, discounts, refunds and shipping/delivery charges. Gross Billings will include all amounts billed for Audio/Visual services provided during the term of this Agreement and Provider's Pre-Booked Events.

"Pre-Booked Events" shall mean those events for which Provider has been contracted to provide audio/visual services at the Facilities prior to the execution of this Agreement but for which the audio/visual services will take place during the Contract Term.

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

II. TERM

2.1 Unless sooner terminated in accordance with the provisions herein, the term of this Agreement is three (3) years and shall commence on June, 2005 and terminate on June, 2008 ("Term").

2.2 CITY retains the option to renew the Agreement for a period not to exceed two (2) years ("Option Period") provided that PROVIDER is not in default of any of the provisions contained herein and provided the Parties mutually agree in writing upon the key business terms applicable during the Option Period including, without limitation, commission rates to the CITY, at least 120 days prior to the expiration of the Term.

III. SCOPE OF SERVICES

3.1 The selected Preferred Audio/Visual Service Provider will:

- (a) No later than thirty (30) days after the effective date of this Agreement, implement a marketing and promotion plan, consistent with Provider's business practices, for the sale of audio/visual services that includes quality collateral materials for Clients of the Facilities.
- (b) Participate in cooperative efforts with the Department and the San Antonio Convention and Visitors Bureau, including on-site visits and trade show participation upon reasonable request.
- (c) Analyze each event on the Event Schedule provided by the CITY to determine the most appropriate means of marketing the PROVIDER's services to Clients of the Facilities, to procure contracts for audio/visual services with Clients of the Facilities, and to assess the

specific support requirements of each event so that adequate personnel and equipment resources are in place to ensure that audio/visual services are provided in a timely and efficient manner.

- (d) Provide quarterly Proposal/Booking reports to CITY in form mutually agreed between the Parties.
- (e) Provide personnel to be responsible for coordinating and providing prompt, courteous, and efficient support services and equipment that is consistent with the expectations held by Clients of the Facilities.
- (f) Maintain an inventory of audio-visual equipment that is readily available, (at or near the Facilities), of high quality, in good repair, and periodically acquire new equipment inventory, consistent with Provider's business practices, to replace for normal wear and tear, to reflect trends in audio/visual industry and to meet Client of the Facilities requirements over the term of the Contract.
- (g) Provide all Audio/Visual Services requested by Clients of the Facilities and all related equipment including but not limited to: microphones (**in accordance with Henry B. Gonzalez Convention Center policies, guidelines and City of San Antonio ordinances**), monitors, projectors, video players, screens, flipcharts, video players, cameras, plasma screens, and complete, independent sound & lighting systems for concerts, receptions and general session events.
- (h) Prepare and submit annually a Price List for all services to be provided to Clients of the Facilities. Such Price List shall: 1) be consistent with prices charged for similar audio/visual services provided at other similarly sized facilities and (2) be supported by a regional competitive set of prices of at least three (3) similarly sized convention and hotel facilities. The Price List shall be subject to the City's prior review and approval, which shall not be unreasonably withheld. Director must approve any variance from the Price List in writing.
- (i) Conform to the San Antonio Convention Facilities Operational Policies dated February 1, 2005 attached hereto as Exhibit "A" and as may be periodically updated over the term of this Agreement.
- (j) Provide AVHQ owned and available Audio/Visual Equipment & Services at no-cost to non-revenue generating events at the request of CITY through its event coordinator. If AVHQ is required to sub-rent equipment or labor, it shall be billed to the City as cost plus 10%

3.2 Within thirty (30) days of the effective date of this Agreement, PROVIDER shall submit to the Director a set of standard operating rules for audio/visual services which shall, upon approval by the Director, become Exhibit "B" to this Agreement. The rules shall contain, but not be limited to, the type of services and manner in which PROVIDER will provide audio/visual service at the Facilities.

3.3 All work performed by PROVIDER hereunder shall be performed to the reasonable satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. CITY shall have the right to terminate this Agreement following the applicable notice and cure period, if uncured, in accordance with Article XIII, entitled "Termination," in whole or in part, should PROVIDER's work not be reasonably satisfactory to Director

3.4 At a minimum and subject to audiovisual business levels at the Facilities, PROVIDER shall be open from 7:45 a.m. until 4:30 p.m. Monday through Friday, excluding official CITY holidays, but agrees to operate during all hours necessary to support event activities at the Facilities including move-in and move-out requirements. Subject to business levels from time to time, PROVIDER shall provide sufficient staff to provide timely and high-quality support to all users of the Facility.

IV. SERVICE TO CLIENTS OF THE FACILITIES

4.1 PROVIDER acknowledges and agrees that providing efficient and courteous staff, high quality equipment and products at all times to Clients of the Facilities is an essential and integral part of this Agreement. PROVIDER acknowledges that the failure to provide the quality of services required under this Agreement on a consistent basis, may be cause for termination, subject to the early termination provisions described below.

4.2 PROVIDER shall conduct its operation in such a manner so as to reasonably prevent complaints from Clients of the Facilities regarding the quality of service provided by PROVIDER.

4.3 One aspect of measuring the quality of service provided by the PROVIDER shall be the responses to a quality of service questionnaire Client Critique completed by Clients of the Facilities that have utilized the PROVIDER's services. PROVIDER will be graded on a scale of Excellent, Good, Average, and Poor. PROVIDER will be required to respond in writing to grades lower than "Good" within forty-eight (48) hours of receiving the grade. PROVIDER's written response should be addressed to Director. PROVIDER shall have the opportunity to review and approve any questions related to audio/visual services before implementation. Such approval shall not be unreasonably withheld.

4.4 PROVIDER is expected to offer its services to all Clients of the Facilities. However, if PROVIDER elects not to compete for a Client of the Facilities' business, PROVIDER must, upon request, provide written notice and an explanation to Director as to the circumstances of PROVIDER's election to not provide service.

V. PROVIDER'S PERSONNEL

5.1 PROVIDER shall employ, train, and supervise an adequate, permanent staff of personnel to work full-time at the Facilities ("Facilities Staff") and to provide efficient, prompt and courteous service to all Clients of the Facilities utilizing the services provided by the

PROVIDER, subject to business levels from time to time at the Facility. The Facilities Staff shall include at a minimum: (a) one (1) full-time marketing/account representative; (b) one (1) full-time technical supervisor; and (c) one (1) full-time audio/visual technician.

5.2 PROVIDER shall designate one of its Facilities Staff as "manager" to oversee the operation of audio/visual services at the Facilities. The "manager" shall be a person qualified and experienced in the management of an audio/visual service business and to manage and supervise the audio/visual service operation at the Facilities and be available to the Department, other Facilities Staff members and Clients of the Facilities at the Facilities during all hours of operation. The "manager" shall be vested with full power and authority to act for the PROVIDER in matters relating to audio/visual operations at the Facilities. The "manager" shall also be responsible for the appearance, conduct, and demeanor of the employees, agents, and invitees who are admitted onto the Facilities on behalf of PROVIDER. The designation of the "manager" shall be subject to the approval of the Director, but in no case shall such approval be unreasonably denied.

5.3 PROVIDER shall supply the Facilities Staff with not more than three (3) paging devices, cell phones, and/or two-way radios that shall be worn by Facilities Staff and shall provide such contact numbers to Director or his designated agent.

5.4 The Director or his designated agent may reasonably require the PROVIDER to eject from the premises any member of the PROVIDER's Facilities Staff, or sub-contractor or temporary personnel of PROVIDER who uses improper language or acts in any discourteous, loud, boisterous, inappropriate, or offensive manner. The Director shall have the right to require PROVIDER to provide an acceptable replacement within a reasonable time after such ejection. If the PROVIDER is unable or unwilling to provide a replacement acceptable to the Director, the contract shall be deemed to have been breached and CITY shall have the right to terminate this Agreement following the applicable notice and cure period if uncured by Provider.

5.5 PROVIDER'S Facilities Staff's appearance while on duty shall project a professional, business-like image. PROVIDER'S Facilities Staff shall wear distinctive uniforms and a photo identification badge that identifies them as an employee of the PROVIDER. PROVIDER must obtain the approval of the Director for the uniform design and photo identification badge to be worn by its employees. The Director will not withhold approval unreasonably. PROVIDER will adopt and ensure that PROVIDER'S staff follows the reasonable grooming standards of the Henry B. Gonzalez Convention Center.

5.6 PROVIDER will require that the audio/visual technician on its Facilities Staff attend all pre-convention meetings. PROVIDER will require at least one member of its Facilities Staff to attend all post-convention meetings.

5.7 PROVIDER shall inform CITY of any staffing changes to the positions specified in Section 5.1 above at least 10 days prior to such change becoming effective, unless Provider did not have notice of the same at least 10 days prior to such event.

VI. COMPENSATION TO CITY

6.1 For consideration of being designated CITY's Preferred Audio/Visual Service Provider, PROVIDER shall pay to CITY by the 20th day of each month, the following:

- (a) Year 1: a ten percent (10%) commission on all Gross Billings for the prior month period and a five percent (5%) commission on all Pre-Booked events as listed on attached Exhibit E;
- (b) Year 2: a ten percent (10%) commission on all Gross Billings for the prior month and a five percent (5%) commission on all Pre-Booked events; and
- (c) Year 3: a fifteen percent (15%) commission on all Gross Billings for the prior month

as total compensation for the Initial Term of this Agreement. If CITY and PROVIDER mutually agree to extend this Agreement for the Option Period under 2.2 of this Agreement, the Parties shall agree to an appropriate monthly commission or fee for the Option Period which shall not be less than twenty percent (20%).

6.2 In billing Clients of the Facilities, PROVIDER shall not disclose CITY's compensation.

6.3 Within twenty (20) calendar days following the close of each calendar month, PROVIDER shall furnish CITY with a statement of Gross Billings and CITY's Percent Commission, in a format acceptable to CITY, for the prior calendar month period. It is understood by PROVIDER that all commissions due CITY shall be calculated from the amount actually billed to a Client of the Facilities. Commission waivers, if any are given, must be approved in writing by the Director and a copy of the waiver document must be included in PROVIDER's monthly sales report and also kept in PROVIDER's file.

6.4 In the event PROVIDER does not submit the statement of Gross Billings and/or the Percent Commission payment by the due date, CITY shall give PROVIDER written notice and PROVIDER shall have five (5) business days from the receipt of notice to submit the required statement of Gross Billings and payment unless the time period is extended in writing at the sole discretion of the Director. Failure by PROVIDER to submit the statement of Gross Billings and commission fee within (60) hours notice, unless the Director grants additional time in writing, shall subject PROVIDER to a penalty of an additional 3.5% per month of the outstanding and past due amount and shall make PROVIDER in default of this Agreement.

6.5 PROVIDER shall provide, on or before April 30 of each year of this Agreement, a budgetary projection of the anticipated Gross Billings for the CITY's upcoming fiscal period which begins on October 1 of each year, subject to information provided by the City concerning bookings and events at the Facility.

6.6 PROVIDER will provide AVHQ owned audio/visual services to the CITY and the Percent Commission will not be payable by PROVIDER for audio/visual services provided to CITY. In the event the City requires inventory outside AVHQ's owned inventory, the City will pay cost of renting plus 10% managing fee to PROVIDER.

6.7 At the end of Year 1, PROVIDER and CITY agree to establish and mutually agree upon a Minimum Annual Guarantee (MAG) for Years 2 and 3 that PROVIDER shall pay CITY should the percentages provided in Section 6.1 of this Agreement not exceed the agreed upon MAG.

VII. USE OF CITY FACILITIES

7.1 PROVIDER shall be entitled to occupy certain secure office space and equipment storage space ("Designated Spaces") within the Facilities as designated by CITY in Exhibit "C". The Designated Spaces shall be mutually agreed within the Facilities and in reasonably close proximity to the premises where events are held. The Designated Spaces shall contain the standard power and be air-conditioned, as appropriate to the use of the space. The Designated Spaces shall also contain standard telephone, and data outlets, as appropriate to the use of the space. PROVIDER shall be responsible for activating telephone and data outlets and for the cost of any further improvements desired in the Designated Spaces, including installation of all necessary cabinets, furniture, fixtures, equipment and any additional power, air-conditioning, telephone and data outlets. PROVIDER is responsible for all costs and materials required to secure the Designated Spaces.

7.2 CITY shall have the right to enter the Designated Spaces to inspect at reasonable times and upon notice during operating hours, to determine if PROVIDER has complied and is complying with the terms and conditions of this Agreement. The CITY may enter the Designated Spaces at any time, in the case of an emergency affecting the public interest or property.

7.3 PROVIDER agrees not to commit, permit, or allow any damage to any part of the Facilities and appurtenances thereto, including the PROVIDER's Designated Spaces. If the PROVIDER breaches the conditions hereof, CITY is expressly authorized to restore the Facilities or other appurtenances and to make such repairs, as may be necessary to prevent injury or damage, and PROVIDER agrees to pay the CITY within ten (10) calendar days after the receipt of a statement of the cost of such repairs the full amount due as shown on the statement.

7.4 PROVIDER shall conduct its operation in such a manner so as to prevent the following from taking place at the Facilities:

- (a) Any cause for public nuisance;
- (b) Any creation of objectionable noises, notwithstanding Provider's services;
- (c) Any generation of noxious smoke, gases, vapors and odors;
- (d) Any illegal activity;
- (e) Activities other than those permitted by this Agreement.

7.5 Deliveries of all supplies, goods, wares, merchandise and equipment shall be made at locations and times mutually agreed by PROVIDER and CITY, provided however, that CITY shall not unreasonably withhold its agreement where such locations and times are reasonably

established by PROVIDER as necessary to provide the services and which do not otherwise unreasonably interfere with the operation of the Facilities.

7.6 No excavation, additions or alterations shall be made by the PROVIDER to the Facilities and/or appurtenances without the prior written consent of the Director. The use of the Facilities and its appurtenances and PROVIDER's Designated Spaces by the PROVIDER and its employees or agents in any manner other than that authorized herein must be approved by the Director.

7.7 PROVIDER shall peaceably surrender and deliver to the CITY possession of the Designated Spaces and improvements thereupon on the date of termination of this Agreement.

7.8 Upon termination of this Agreement, PROVIDER shall remove from the Designated Spaces, under the supervision of the Director or his designee, its merchandise, removable equipment, trade fixtures and other personal property in such a manner as to cause no damage to the Designated Spaces, and in the event of any such damage, PROVIDER agrees to reimburse CITY for repairs and/or restoration to the Designated Spaces to the original condition at time of delivery to Provider or to a condition reasonably satisfactory to the CITY.

7.9 If PROVIDER fails or neglects to remove all or any portion of its merchandise, equipment, trade fixtures and/or personal property within fifteen (15) calendar days after the termination of the contract, CITY, at its sole option and without prior notice to PROVIDER, may either remove and/or dispose of the same and charge the cost of such removal and/or disposal to PROVIDER, which costs the PROVIDER hereby agrees to pay.

7.10 PROVIDER shall, at its own cost and expense, at all times when providing audio/visual services at the Facilities, maintain and keep PROVIDER's Designated Spaces and adjacent areas, free and clear from trash and other unsightly, unsafe or unsanitary objects attributable to its operation.

VIII. ADVERTISEMENT AND MEDIA CONTACTS

8.1 PROVIDER shall not erect, install or operate signage or improvements outside the PROVIDER's Designated Spaces, or in or upon any other CITY property without first having obtained the written consent of the Director or his designee. Such written consent may provide conditions concerning factors such as existing signage, size, type, content, and method of installation.

8.2 PROVIDER shall not refer to the CITY or any office, agency, or officer thereof, or any CITY employee, or to the services or goods provided under this Agreement, or use the City of San Antonio or San Antonio Convention Facilities logos, in any of PROVIDER's brochures, advertisements, or other publicity of PROVIDER without the written consent of the Director.

8.3 PROVIDER shall refer all media inquiries regarding the subject matter of this Agreement to the Director.

IX. CITY'S EXISTING AGREEMENTS

9.1 It is expressly understood that CITY has contractual agreements on an exclusive or partially-exclusive basis for the services listed below:

Food and Beverage
Telecommunications
Business Center
Utilities

Subject to the City providing Provider with copies of these existing agreements it is the responsibility of the PROVIDER to ensure that any services proposed or performed shall not conflict or violate the terms of these existing agreements.

9.2 PROVIDER is prohibited from renting display screens for the purpose of advertising within the lobbies of the Premises without the expressed written consent of the Director.

9.3 CITY reserves the right to enter into other exclusive agreements as long as such services do not encroach upon the equipment and services provided under this Agreement.

X. OWNERSHIP OF DOCUMENTS

10.1 Any and all writings, documents or information in whatsoever form and character produced by PROVIDER on behalf of or for the CITY 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 PROVIDER.

10.2 PROVIDER 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.

XI. RECORDS RETENTION

11.1 PROVIDER and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to Provider's provision of audio/visual equipment and 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.

11.2 PROVIDER shall retain any and all documents produced as a result of services provided hereunder for a period of three (3) 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, PROVIDER shall retain the records until the resolution of such litigation or other such questions. PROVIDER 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 PROVIDER to return said documents to CITY prior to or at the conclusion of said retention.

11.3 PROVIDER shall notify CITY, immediately, in the event PROVIDER receives any requests for information from a third party, which pertain to the documentation and records referenced herein. PROVIDER understands and agrees that CITY will process and handle all such requests.

XII. AUDIT

12.1 PROVIDER shall provide to Director all reports reasonably requested by CITY including, but not limited to, reviewed financial statements and reports, reports and accounting of services rendered, and any other reports or documents reasonably requested in connection with services rendered hereunder. PROVIDER shall provide financial and service reports in a time frame as determined by CITY. Contractor shall also provide any other reports or documents to CITY within five (5) working days after PROVIDER receives CITY's written requests, unless the parties agree in writing on a longer period.

12.1.1. CITY may require PROVIDER to submit reports in a format suitable to CITY. PROVIDER may seek approval of Director by proposing a format in which information shall be provided to CITY.

12.2 CITY or its authorized representative shall at all reasonable times with prior notice have the right to examine, inspect, and audit all books and records relating to Provider's services hereunder as necessary to determine the accuracy of reports relative to the Gross Billings of PROVIDER's operations under this Agreement. The cost and expense incurred by City incident thereto shall be the sole responsibility of and borne by CITY. Such records shall without limitation include the records of all daily receipts and deposits, and all books, accounts, memoranda, and all or any other documents of PROVIDER indicating and substantiating the amount of any expenditures and receipts related to the foregoing: deposit slips, bills, vouchers, payroll records, purchase orders, and other pertinent records that, under recognized accounting and industry practices, contain information bearing upon or relating to cost, income, gross sales, or subsidy. CITY may require PROVIDER to perform an annual audit by an independent auditing firm. In the event that an audit by either Party reveals an error in the calculation of the payments made by PROVIDER to CITY under this Agreement, then the auditors report shall be furnished to City. If a corrected payment required by the auditors report is due CITY, PROVIDER shall pay City the amount due within fifteen (15) working days of PROVIDER's receipt of such report together with interest at the rate of 12%. Either Party may dispute the findings of this audit within the fifteen (15) day period and shall within thirty (30) days

following receipt of the auditors report submit such additional information as may be required to correct the auditors report.

12.3 Any changes to audit intervals and record retention will be determined by the CITY in its sole discretion.

12.4 PROVIDER shall, consistent with its business practices, take all precautions to ensure that all cash income received from any source and non-cash vouchers are immediately recorded and that designated reports are submitted as required under this Agreement.

12.5 PROVIDER shall also be subject to periodic, reasonable, unannounced operating audits. Such audits may include, but not be limited to, a comprehensive review of:

- a) Service quality, attentiveness, courteousness, etc.
- b) Personnel appearance
- c) Training program techniques, schedules, and records
- d) Safety conditions
- e) Operational performance from a financial perspective
- f) Other related operational conditions and/or practices

12.6 PROVIDER shall be notified by the Convention Facilities Director of conditions needing reasonable correction or improvement. PROVIDER shall promptly comply with any such reasonable requests.

XIII. TERMINATION

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

13.2 At the conclusion of the second year of this Agreement, CITY may elect to terminate the Agreement on any basis stated in the Agreement and also if PROVIDER has not secured and provided service to at least twenty-five percent (25%) of the trade shows and conventions held during the first two-year period.

13.3 Termination Without Cause. This Agreement may be terminated by CITY upon six (6) month's written notice, which notice shall be provided in accordance with Article XIV, entitled "Notice." PROVIDER may terminate this Agreement with CITY's consent upon six (6) month's written notice as provided in Article XIV entitled "Notice."

13.4 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article XIV, entitled "Notice," CITY may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

(a) The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XVII. "Assignment and Subcontracting."

(b) The filing of a petition for bankruptcy by the PROVIDER. Upon the filing of a petition for bankruptcy by the PROVIDER this Agreement automatically terminates and no further payments will be due PROVIDER for services performed under this Agreement.

13.5 Defaults With Opportunity for Cure. Should PROVIDER default in the performance of a material provision of this Agreement, it shall be considered an event of default. CITY shall deliver written notice of said default specifying such matter(s) in default. PROVIDER shall have thirty (30) calendar days after receipt of the written notice, in accordance with Article XIV, entitled "Notice," to cure such default. If PROVIDER fails to cure the default within such cure period, or if such cure cannot be reasonably cured with such period, if Provider's fails to commence and diligently pursue such cure within such 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 entity to complete the work required in this Agreement.

(a) Failure to comply with the terms and conditions stated in Article XVIII, entitled "Non-Discrimination/SBEDA."

(b) Bankruptcy or selling substantially all of company's assets.

(c) Failing to perform or failing to comply with any covenant herein required.

(d) Performing unsatisfactorily.

13.6 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.

13.7 Regardless of how this Agreement is terminated, PROVIDER 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 PROVIDER, or provided to PROVIDER, hereunder, regardless of storage medium, if so requested by CITY, or shall otherwise be retained by PROVIDER in accordance with Article X, entitled "Records Retention." Any record transfer shall be completed within thirty (30) calendar days of a written request by CITY and shall be completed at PROVIDER's sole cost and expense.

13.8 Upon the effective date of expiration or termination of this Agreement, PROVIDER shall cease all operations of work being performed by PROVIDER or any of its subcontractors pursuant to this Agreement. Expiration or termination of this Agreement shall not preclude

Provider from continuing to provide services and equipment at the City's venues through its direct contractual relationships with clients and customers of Provider.

13.9 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 PROVIDER for any default hereunder or other action.

XIV. NOTICE

14.1 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:

CITY of San Antonio
Attn: Director
San Antonio Convention Facilities
P.O. Box 1809
San Antonio, TX 78296

If intended for PROVIDER, to:

Name of PROVIDER
Attn: _____

w/ copy to:

AVSC Legal Department
111 West Ocean Blvd. #1110
Long Beach, CA 90802

XV. INSURANCE

15.1 Prior to the commencement of any work under this Agreement, PROVIDER shall furnish an original completed Certificate(s) of Insurance to the CITY's Risk Management Department and CITY Clerk's Office, and which shall be clearly labeled "Service Agreement for Audio/Visual Services at the San Antonio Convention Facilities" 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 Risk 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.

15.2 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 reasonably 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.

15.3 A PROVIDER's financial integrity is of interest to the CITY; therefore, subject to PROVIDER's right to maintain reasonable deductibles in such amounts as are reasonably approved by the CITY and mutually agreed with Provider, PROVIDER shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at PROVIDER'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 minimum amounts:

<u>TYPE</u>	<u>AMOUNT</u>
a. Workers' Compensation	Statutory
b. Employers' Liability	\$500,000.00/\$500,000.00/ \$500,000.00
c. Commercial General (public) Liability Insurance to include coverage for the following:	
(1) Premises/Operations	<u>Bodily Injury and</u> <u>Property Damage</u> of \$1,000,000.00 per occurrence
(2) Independent PROVIDERs	
(3) Products/completed operations	
(4) Contractual liability	
(5) Broad form property damage, to include fire legal liability	
(6) Personal Injury	
d. Excess Liability (umbrella form) (Excess liability insurance shall the form of the Primary insurance).	\$5,000,000.00 each occurrence follow \$5,000,000.00 aggregate

e. Business Automobile Liability

- (1) Owned/leased vehicles
- (2) Non-owned vehicles
- (3) Hired vehicles

Combined Single Limit for
Bodily Injury and Property
Damage of 1,000,000.00 per
occurrence or its equivalent.

15.4 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 reasonably 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). PROVIDER shall be required to comply with any such reasonable requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided in Section 10.6 herein within 10 days of the requested change. PROVIDER shall pay any costs incurred resulting from said changes.

15.5 PROVIDER 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.

15.6 When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by CITY, PROVIDER shall notify the CITY of such and shall give such notices not less than thirty (30) days prior to the change, if PROVIDER knows of said change in advance, or ten (10) days notice after the change, if the PROVIDER did not know of the change in advance. Such notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the CITY at the following address:

CITY of San Antonio
San Antonio Convention Facilities
P.O. Box 1809
San Antonio, Texas 78296

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

15.7 If PROVIDER 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 PROVIDER to maintain said insurance or secure such endorsement. In addition to any other remedies the CITY may have upon PROVIDER'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 PROVIDER to stop work hereunder, and/or withhold any payment(s) which become due to PROVIDER hereunder until PROVIDER demonstrates compliance with the requirements hereof.

15.8 Nothing herein contained shall be construed as limiting in any way the extent to which PROVIDER may be held responsible for payments of damages to persons or property resulting from PROVIDER's or its subcontractors' performance of the work covered under this Agreement.

15.9 It is agreed that PROVIDER'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 Provider's operations under this Agreement, excluding the acts, error or omissions of CITY and its employees, subcontractors and representatives.

XVI. INDEMNIFICATION

16.1 PROVIDER covenants and agrees to FULLY INDEMNIFY, DEFEND, and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and authorized representatives of CITY, individually or collectively, from and against any and all defense costs, claims, liens, damages, judgments, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind in law or in equity and nature: (1) arising out of or in connection with PROVIDER's performance of audio/visual services ; and (2) arising out of any act or omission of PROVIDER or any of PROVIDER's employees, agents, consultants, contractors, representatives, guests, or invitees and their respective officers, agents, employees, directors and representatives, including any damage to or loss of any property belonging to : (a) PROVIDER or PROVIDER's employees exhibitors, contractors, representatives, patrons, guests or invitees and their respective officers, agents, employees, directors and representatives, or (b) CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY.

The indemnity provided for in the foregoing paragraph shall not apply to any liability resulting from the sole negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage, except to the extent provided below.

IN THE EVENT PROVIDER 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 THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS, FEDERAL, OR INTERNATIONAL LAW.

PROVIDER shall promptly advise CITY in writing of any claim or demand against CITY or PROVIDER known to PROVIDER related to or arising out of PROVIDER's or CITY's activities under this Agreement. Further, PROVIDER shall see to the investigation and defense of any such claim or demand against PROVIDER or CITY at PROVIDER'S sole cost until such time as CITY is found to be negligent by a court of competent jurisdiction. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving PROVIDER of any of its obligations under this paragraph.

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.

XVII. ASSIGNMENT AND SUBCONTRACTING

17.1 PROVIDER 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 PROVIDER. PROVIDER, its employees or its subcontractors shall perform all necessary work.

17.2 It is CITY's understanding and this Agreement is made in reliance thereon, that PROVIDER intends to use the subcontractors included in PROVIDER's Good Faith Effort Plan, attached hereto as Exhibit "D", in the performance of this Agreement. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by the City of San Antonio City Council (hereafter "City Council"), as evidenced by passage of an ordinance, prior to the provision of any services by said subcontractor.

17.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract or otherwise consistent with Provider's business practices 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 PROVIDER. CITY shall in no event be obligated to any third party, including any subcontractor of PROVIDER, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the CITY Council.

17.4 Except as otherwise stated herein, PROVIDER 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, PROVIDER shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor PROVIDER, assignee, transferee or subcontractor.

17.5 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 PROVIDER 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 PROVIDER shall thereupon cease and terminate, in accordance with Article VII, entitled "Termination," notwithstanding any other remedy available to CITY under this Agreement. The violation of this provision by PROVIDER shall in no event release PROVIDER from any obligation under the terms of this Agreement, nor shall it relieve or release PROVIDER from the payment of any damages to CITY, which CITY sustains as a result of such violation.

XVIII. INDEPENDENT PROVIDER

18.1 PROVIDER covenants and agrees that he or she is an independent PROVIDER and not an officer, agent, servant or employee of CITY; that PROVIDER 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 respondent superior shall not apply as between CITY and PROVIDER, its officers, agents, employees, contractors and subcontractors, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between CITY and PROVIDER. 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 PROVIDER under this Agreement and that the PROVIDER has no authority to bind the CITY.

XIX. NON-DISCRIMINATION AND SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY PROGRAM (SBEDA)

19.1 PROVIDER agrees not to deny anyone service on the basis of race, color, creed, religion, sex, age or handicap. Any discriminatory practices by the PROVIDER shall be deemed a breach of the Agreement and shall be cause for termination of the Agreement by the CITY.

19.2 PROVIDER 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"). Provider shall not discriminate in the hiring or subcontracting of SBE, WBE, AABE or MBE's.

19.3 PROVIDER shall implement the Good Faith Effort Plan incorporated herein as Exhibit "D". PROVIDER shall be in full compliance with this article by meeting the percentages listed in its Good Faith Effort Plan, if applicable, no later than 60 days from the date of execution of

this Agreement, and shall remain in compliance throughout the term of this Agreement. PROVIDER further agrees to continue to make a good-faith 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 Good Faith Effort Plan, if applicable.

19.4 PROVIDER shall maintain records showing all contracts, subcontracts, and supplier awards to SBE/MBE/AABE/WBE's, as applicable. Further, such records shall be open to inspection by CITY or its authorized agent at all reasonable times. Should CITY find that PROVIDER is not in compliance with this Article, CITY shall give notice of non-compliance to PROVIDER. PROVIDER shall have fifteen (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 XIII, entitled "Termination."

19.5 In all events, PROVIDER shall comply with the CITY's Small Business Economic Development Advocacy Program, contained in San Antonio Ordinance No. 100182, and the amendments thereto. Said ordinances are incorporated herein for all purposes, as if fully set forth herein.

XX. CONFLICT OF INTEREST

20.1 PROVIDER 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 the 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 the 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.

20.2 Pursuant to the subsection above, PROVIDER warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the CITY. PROVIDER further warrants and certifies that it has tendered to the CITY a Discretionary Contracts Disclosure Statement in compliance with the CITY's Ethics Code.

XXI. AMENDMENTS

21.1 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 PROVIDER, and subject to approval by the CITY Council, as evidenced by passage of an ordinance.

XXII. SEVERABILITY

22.1 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.

XXIII. LICENSES/CERTIFICATIONS

23.1 PROVIDER warrants and certifies that PROVIDER 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.

23.2 PROVIDER shall secure and keep current all permits or licenses required by law, pay promptly all charges or fees, and give all notices necessary and incidental to the lawful provision of audio/visual services in the Facilities.

XXIV. TAXES

24.1 PROVIDER shall pay any and all applicable taxes on accounts of its services hereunder, including but not limited to personal property, sales tax and possessory interest or use tax, assessed or levied on PROVIDER's or CITY's interest in this Agreement, PROVIDER's personal property and/or improvements constructed in CITY's property by PROVIDER, if any.

XXV. COMPLIANCE

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

XXVI. NONWAIVER OF PERFORMANCE

26.1 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 XVI, entitled "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.

XXVII. LAW APPLICABLE

27.1 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.

27.2 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.

XXVIII. LEGAL AUTHORITY

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

XXIX. PARTIES BOUND

29.1 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.

XXX. CAPTIONS

30.1 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.

XXXI. INCORPORATION OF EXHIBITS

31.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below:

EXHIBIT A: San Antonio Convention Facilities Operational Policies
EXHIBIT B: PROVIDER's Standard Operating Rules
EXHIBIT C: Designated Areas Floor Plan
EXHIBIT D: Good Faith Effort Plan
EXHIBIT E: Provider's Pre-Booked Events

XXXII. ENTIRE AGREEMENT

32.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, 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 XXI, entitled "Amendments."

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

CITY OF SAN ANTONIO
a municipal corporation

AUDIO VISUAL SERVICES GROUP,
a Delaware corporation

J. Rolando Bono
Interim City Manager



Name: Digby DAVIES
Title: CEO

ATTEST:

Leticia Vacek
City Clerk

Approved as to Form:

Martha C. Sepeda
Acting City Attorney

EXHIBIT A
San Antonio Convention Facilities Operational Policies



OPERATIONAL POLICIES

Revised 02/1/05

For more information please visit our website
www.sanantonio.gov/convfac
or call 1-877-504-8895

INDEX

1)	Alcoholic Beverages	3
2)	Animals	3
3)	Audio.....	3
4)	Automobiles	4
5)	Balloons	4
6)	Badge Recycling	4
8)	Banners	4
9)	Box Office.....	4
10)	Business Center Services	4
11)	Carpet Tape	4
12)	Cascarones (Confetti Eggs).....	4
13)	Casino Functions.....	4
14)	Catering.....	5
15)	Chalkboard	5
16)	Change-Overs.....	5
17)	Concessions.....	5
18)	Confetti	5
19)	Crate Storage.....	5
20)	Damage	5
21)	Dance Floor.....	6
22)	Dances.....	6
23)	Decals.....	6
24)	Deposits.....	6
25)	Docks	6
26)	Draping	6
27)	Drayage	6
28)	Electricity	7
29)	Elevators.....	7
30)	Event Cancellation	7
31)	Event Personnel.....	7
32)	Event Staff.....	7
33)	Exclusive Services	7
34)	Exhibit Booth Furnishings	8
35)	Exhibit Booth Cleaning.....	8
36)	Fire Marshall.....	8
37)	Floors	8
38)	Floor Plans/Exhibit Layouts.....	8
39)	Food & Beverage Policies.....	9
40)	Food Shows.....	9
41)	Free Items.....	9
42)	Garbage	9
43)	Garden Displays.....	9
44)	General Services	9
45)	Give-Aways	10
46)	Glitter	10
47)	Guard Services	10
48)	Handicapped Access	10
49)	Hanging.....	10
50)	Helium Balloons	11
51)	Insurance	11
52)	Keys	11
53)	Lease	11
54)	Licenses / Permits / Taxes.....	11
55)	Lighting.....	11
56)	Lila Cockrell Theatre	12
57)	Literature / Handouts / Leaflets.....	12

58)	Live Animals.....	12
59)	Loading Docks	12
60)	Marquee	12
61)	Meeting Room Service.....	13
62)	Message Facilities	13
63)	Move-In / Move-Out.....	13
64)	Municipal Auditorium.....	13
65)	Nails	14
66)	Natural Gas	14
67)	Noise	14
68)	Novelties	14
69)	Overtime Policies	14
70)	Painting	14
71)	Parking	14
72)	Payment.....	14
73)	Permits	14
74)	Pets.....	14
75)	Plants.....	15
76)	Police Officers.....	15
77)	Posters / Signage	15
78)	Propane	15
79)	Raffles	15
80)	Recycling	15
81)	Refunds	15
82)	Registration	15
83)	Rental Rates	16
84)	Rice	16
85)	Rigging.....	16
86)	Risers/Staging	16
87)	Samples	16
88)	Security	16
89)	Service Contractors	16
90)	Signage.....	16
91)	Skirting.....	17
92)	Sound	17
93)	Spray Paint	17
94)	Stage Hands.....	17
95)	Staples / Tacks / Nails	17
96)	Stickers.....	17
97)	Tape.....	17
98)	Taxes	17
99)	Telecommunications/Data.....	18
100)	Television Monitors	18
101)	Theatre	18
102)	Ticketing	18
103)	Track Vehicles	18
104)	Trash Removal	18
105)	Truck Docks.....	18
106)	Unions	18
107)	Ushers.....	19
108)	Utility Services.....	19
109)	Water Service.....	19

1) Alcoholic Beverages

Alcoholic beverages may be served within Convention Facilities during certain appropriate functions (dances, receptions, etc.). The San Antonio Convention Facilities' exclusive caterer and concessionaire, **The RK Group** must handle the service and sale (concessions) of alcohol for all functions within the Convention Center, Lila Cockrell Theater and Municipal Auditorium.

At least one off-duty San Antonio Police Officer must be present at any function where alcohol is being served or sold. The exact number of officers will be determined by the SAPD Off-Duty Employment Unit. The SAPD ODEU must be contacted by the Lessee to make arrangements.

BYOB (Bring You Own Bottle) functions are not permitted in the Convention Center, Lila Cockrell Theater or the Municipal Auditorium.

The service or sale of alcohol to minors is prohibited by law.

2) Animals

With the exception of assistance dogs and animals participating in contracted events such as dog, cat or cattle shows, animals for the purpose of exhibition are not permitted in the Convention Center, the Lila Cockrell Theater or the Municipal Auditorium without prior written approval from the assigned Event Services Coordinator to the specific event.

When an approved display includes pens or enclosures containing live animals, the following minimal provisions must be made.

- A protective coating (i.e. plastic or visquine) must be used to protect floors, columns, and any Convention Facilities equipment.
- Some type of absorbent (i.e. saw dust or fire retardant wood shavings) must be placed within the pens and around columns.
- Curbing or bike rack must be provided to contain animals
- Animals must be supervised at all times
- Provide clean up and proper disposal of absorbents and waste

Additionally, in accordance with state and local Health Department guidelines, animals are not permitted within 50 feet of any food service preparation or service area. The only exception to this is the use of assistance dogs.

Please contact your Event Services Coordinator for preliminary consideration and further information.

3) Audio

Room rental includes the use of one (1) wired microphone per meeting room or room combination, and one (1) wired paging microphone per exhibit hall or exhibit hall combination. Additional microphones, if available, will be charged to the Lessee's invoice at the contracted rate. A Convention Facilities audio technician must be on duty during all hours of an event when the facility's sound systems and / or equipment will be used. Regular hours of operation for facility audio technicians are 7:00am – 6:00pm, Monday through Friday. The Lessee will be billed for all overtime labor resulting from their use of house systems or equipment. Current overtime rates apply prior to 7:00am and after 6:00pm, Monday – Friday. Overtime rates also apply on weekends and City holidays. Any other A/V equipment (screens, projectors, etc.) should be obtained through an outside A/V contractor. Lessee may use any A/V contractor of their choice.

4) Automobiles

Personally owned vehicles (POV's) may not be driven into the exhibit halls at any time. Vehicle parking in the exhibit halls is prohibited. The only exception to this policy is vehicles that are to be used as part of an exhibit (i.e. car shows).

Vehicles may be displayed in the exhibit halls with prior approval from the City of San Antonio Fire Marshal. See the Fire Regulations packet for vehicle-exhibition guidelines. It is the responsibility of the Lessee to ensure that exhibitors are aware of these rules.

5) Balloons

Helium balloons are not allowed in any part of the Convention Facilities, either for display or for sale. For decoration purposes, air-filled balloons may be used. The Lessee is responsible for informing exhibitors of this policy. The Convention Facilities reserves the right to remove any helium-filled balloons at the Lessee's expense. Helium balloons are permitted in Lower Level of Municipal Auditorium.

6) Badge Recycling

The Convention Facilities has several badge recycling bins where attendees may deposit their badges at the end of the event. This service is available upon request. Please contact your Events Services Coordinator for more information.

7) Badge/Door Monitors

See "Event Staff."

8) Banners

Event-related banners may be displayed in various locations inside and outside of the convention center and Lila Cockrell Theater with prior approval. Requests for banner locations must be submitted in writing to your Events Services Coordinator no later than 30 days prior to your event. The physical hanging / rigging of banners is a service that only by your general services contractor (decorator) or another qualified, facility approved source may provide. Please contact your Event Services Coordinator for more information.

Outdoor banners may not be at the Municipal Auditorium. To make indoor banner arrangements, contact the Municipal Auditorium Facility Manager at (210) 207-8515.

9) Box Office

See "Ticketing."

10) Business Center Services

The San Antonio Convention Facilities' exclusive service provider, The UPS Store, provides all business center services. For more information on specific services and arrangements please call 210-258-8950.

11) Carpet Tape

See "Tape"

12) Cascarones (Confetti Eggs)

The use or display of cascarones (confetti eggs) is prohibited in the convention center, Lila Cockrell Theater and the Municipal Auditorium. The Lessee will be billed for the labor and materials required for clean up resulting from non-adherence to this policy.

13) Casino Functions

Casino functions require the written authorization of the Convention Facilities' Director. Contact your Event Services Coordinator for information.

14) Catering

The RK Group, the Convention Center's exclusive caterer, must be used for all catered functions. Call (210) 225-4535 for specific information.

In the Municipal Auditorium, catering must be provided by one of the pre-approved caterers from the list distributed by the Booking Department or Municipal Auditorium. See website for more details.

15) Chalkboard

Chalkboards or a corkboard with chalkboard on one side can be provided by the Convention Center free of charge and dependent upon availability. The Lessee must make the appropriate arrangements through the Events Coordinator.

16) Change-Overs

Meeting rooms come with one free set-up per day. Additional set-ups or change-overs within the same day are charged at current equipment rates.

17) Concessions

The Convention Facilities' exclusive concessionaire, The RK Group, must provide food and beverage items sold or distributed during the event. The Director of Convention Facilities must expressly approve any other arrangements in writing.

Food and beverage items are not permitted in the main house of the Lila Cockrell Theatre or Municipal Auditorium. For ticketed events, contact the Event Services Manager at (210) 207-5762.

18) Confetti

The use, display or throwing of confetti, glitter, or rice is prohibited within the convention center, Lila Cockrell Theater and the Municipal Auditorium. The Lessee will be billed for the labor and materials required for clean up resulting from non-adherence to this policy.

Also see "Cascarones."

19) Crate Storage

The Lessee's general services contractor (decorator) shall provide crate storage. Areas contracted by the Lessee may be used to store boxes and other equipment by approval of the Convention Facilities. Wooden crates are not allowed in the building without approval from the Fire Marshal. The Convention Facilities is in no way liable for any damage or theft.

20) Damage

Convention Facilities will not be responsible for any damage or injury that the Lessee or its agents, employees, servants, or property sustain from any cause prior to, during or subsequent to, the period covered by the lease; and the Lessee shall expressly release said Convention Facilities and the City of San Antonio from any and all claims for such loss, damage, or injury. The Lessee will indemnify, save and hold harmless San Antonio Convention Facilities and City of San Antonio from all actions or proceedings to recover damages for injuries to persons or property arising from the Lessee's occupancy of the leased premises or the Lessee's actions therein.

The Lessee agrees to pay for any damages to the leased premises resulting from the Lessee's use or occupancy thereof; or resulting from any acts or omissions, intentional, negligent or accidental, whether said acts or omissions are those of the Lessee, its agents or employees, or persons participating in or attending the function contemplated by this lease.

Lessee should contact your Events Services Coordinator to schedule a pre-event and post-event walk through of all leased space in order to establish the condition of the leased space prior to and after the event.

The City of San Antonio shall not be liable to the Lessee for any damage, loss, or expense of any kind sustained by the Lessee as a result of vandalism or malicious mischief.

21) Dance Floor

Lessees may rent dance floors from the Convention Facilities Dept. Dance floors are available at current rates by the section (3'x3'), and are provided on a first come, first served basis, dependant upon availability. Dance floors may be used only on carpeted surfaces. Use of dance floors on concrete (exhibit halls & some walk ways), tiled (some common areas), or parquet (Ballrooms A & B) surfaces is prohibited. The dance floor will not be placed on risers and will not be used outdoors.

22) Dances

The services of uniformed off-duty police officers are required for all dances; the Lessee will pay for this service at the prevailing rate. The San Antonio Police Department Off-Duty Employment Unit will advise the number of officers required after arrangements are completed and the projected number of people to attend is determined. Contact that office at (210) 207-7020.

The Convention Facilities' exclusive caterer and concessionaire, The RK Group must provide food and beverage items sold or distributed during the event. The RK Group is also the concessionaire for the Municipal Auditorium. Any other arrangements must be expressly approved in writing by the Director of Convention Facilities.

23) Decals

See Stickers

24) Deposits

Upon reaching an agreement, the Convention Facilities Department will issue a contract for the Lessee's signature. The lessee must sign and return the contract along with the required rental deposit by the due date in order to execute the contract. Contracts are not considered legally binding until signed by all parties AND timely receipt of required rental deposits by the Convention Facilities Dept. Contact the Booking & Services Division at 210-207-8500 for more details.

25) Docks

See Loading Docks.

26) Draping

No decorative or structural items may be hung from overhead beams, columns, handrails, utility pipes, exterior walls, or fences without prior approval in writing of the Convention Facilities or Municipal Auditorium. Items so attached without approval will be removed at expense of the Lessee.

Drapes, decorations, buntings, and other decorative materials must be fire retardant materials properly treated to meet the requirements of flame-proofing and approved by the City Fire Marshal.

27) Drayage

The Convention Facilities and Municipal Auditorium will not accept freight shipments for the Lessee or its exhibitors. Freight must be consigned prepaid or billed to the

Lessee's general services contractor (decorator) or delivered direct to the service contractor during the event. Shipments may not be made prior to the Lessee's contracted dates. Any attempts to deliver shipments will result in the shipment being turned away.

28) *Electricity*

San Antonio Convention Facilities does not provide electricity for exhibitors or the Lessee. A licensed electrical contractor from our approved list (**Harper Wood, Edlen**) must be used to supply power to exhibit booths, equipment inside mobile facilities, etc. In meeting rooms where the standard outlet is not sufficient, it is the responsibility of the Lessee to procure electrical services through a licensed electrical contractor from the approved list.

29) *Elevators*

Adequate passenger and freight elevators, providing accessibility to all areas of the convention center, Lila Cockrell Theater and Municipal Auditorium are available. Under no circumstances shall freight be moved in a passenger elevator. Freight elevators are not to be used as a passenger elevator.

30) *Event Cancellation*

Should the Lessee choose to cancel an event, the notification must be submitted in writing to the Booking Coordinator.

Per Convention Facilities' lease agreements, should the Lessee decide to release all or any portion of their contracted space, the Lessee will forfeit all payments made on the released space, unless this space is re-booked to another party. Although the Convention Facilities Department will make every effort to re-book the released space, the Lessee understands that the Convention Facilities Department is under no obligation to re-book the released space.

Contact your Booking Coordinator for details of this policy.

31) *Event Personnel*

Rental fees do not include the costs of Audio/Visual technicians, off-duty policemen, and all other personnel required for the presentation of the event. Ticket takers, ushers, badge checkers, and T-shirted event staff must be hired as needed by the Lessee.

32) *Event Staff*

For the purpose of distinguishing between security personnel (an exclusive service provide the San Antonio Police Department's Off Duty Employment Unit ... see "Security"), The San Antonio Convention Facilities Dept., in cooperation with the SAPD Off Duty Employment Unit, has chosen to use the term "Event Staff" to describe personnel who may provide non-security related services. These services and functions include Badge Checkers, Door Monitors, Ushers, Ticket Takers and Meeting Room Monitors.

Currently, any Event Staffing services provider may provide these services, but are not permitted to physically handle event attendees.

33) *Exclusive Services*

The following services are exclusive to Convention Facilities Dept. contractors.

- ### **34) Exhibit Booth Furnishings**

35) *Exhibit Booth Cleaning*

36) Fire Marshall

37) Floors

38) *Floor Plans/Exhibit Layouts*

Changes to floor plans for meetings, dances, or banquets cannot be accepted less than 72 hours prior to an event. In some situations where a change is requested, the Lessee may incur additional labor charges.

39) Food & Beverage Policies

San Antonio Convention Facilities has authority over all food services. The RK Group, as the exclusive caterer and concessionaire in the Convention Center and Lila Cockrell Theatre, will provide services for banquets, buffets, receptions, parties, concessions and novelties. Outside caterers and outside food and beverages are not allowed into the Convention Center.

At the Municipal Auditorium, a caterer from the approved list must be utilized. The RK Group is the exclusive concessionaire of Municipal Auditorium.

The Lila Cockrell Theatre and Municipal Auditorium prohibit all food and drink items in the house areas. An additional fee may be determined by the Convention Facilities Director or the Event Services Coordinator for clean up of food and beverage in these areas.

40) Food Shows

Lessee is responsible for making arrangements to provide exhibitors with food waste containers. The containers shall be accessible to exhibitors on a daily basis. A grease bucket and portable sinks must be provided for all grease disposal and exhibitor cleaning. These will be provided through the lessee's decorator or electrical contractor from the approved list. Food banks should be contacted to pick-up excess food left behind.

All food waste products shall be contained in plastic bags, tied and disposed of in the provided open dumpster. Food waste will be emptied on a daily basis.

41) Free Items

Exhibitors may give away free items to event attendees, with the exception of firearms and other weapons. Food and beverage sample items have specific limitations; consult the Events Coordinator for more specific information. See Give-Aways.

42) Garbage

See Trash Removal.

43) Garden Displays

Displays containing soil, humus, or similar materials must use a protective coating of plastic or visquine to protect the floor, carpet, and all Convention Facilities equipment. Curbing must be used to retain loose materials and to prevent leaks and water seepage.

44) General Services

San Antonio Convention Facilities provides at no additional cost to the Lessee general room lighting, air conditioning or heat during meeting/show hours, once-daily cleaning of aisles and corridors, maintenance of restrooms and facility trash cans (catering and decorator waste baskets are not included), with all the necessary equipment, materials, supplies, labor, and supervision. Air conditioning/heating is provided during move-in/move-out days only at additional cost to the Lessee.

The Lessee shall be responsible for extra labor, such as sound technicians, at the prevailing overtime rate.

Not included in the basic rental are charges for special labor required to accomplish Lessee event set-up needs or operation of such items as special staging, supplemental lighting and sound, food or beverage distribution, and audio/visual equipment. The Lessee must provide the Events Coordinator with specific details of

all set-up requirements well in advance, so that the set-up may be accomplished as efficiently as possible and set-up charges to the Lessee kept at an absolute minimum.

Minimum lighting (work lights) will be utilized during the move-in and move-out periods. Air conditioning and heating during move-in/move-out days must be expressly requested by the Lessee, at additional cost to be added to the final invoice. On show days, lights and power will be cut to a minimum level within a reasonable time after the event closes unless special arrangements have been made with the Events Coordinator. Escalators will be in operation only during show hours.

Any exception to these guidelines must have prior approval and if such waiver is granted, additional charges will apply where appropriate.

45) Give-Aways

Exhibitors may offer "free" give-aways at any time with the exception of firearms or other weapons. Food and drink items must be sample-sized. Check with the Events Coordinator to ensure adherence to regulations. See Free Items and Raffles.

46) Glitter

The use, display or throwing of glitter, confetti or rice is prohibited within the convention center, Lila Cockrell Theater and the Municipal Auditorium. The Lessee will be billed for the labor and materials required for clean up resulting from non-adherence to this policy. Also see "Cascarones," "Confetti" and "Rice."

47) Guard Services

All security personnel (ticket takers, badge checkers, T-shirted security) are to be contracted by the Lessee. These personnel may not be used in lieu of San Antonio Off-Duty Police Officers for overnight security, load-in/load-out, public events, or functions where alcohol will be served. The Convention Facilities and Municipal Auditorium do not provide additional security guards for trade show or entertainment events. It is the responsibility of the Lessee to contact the Off-Duty Employment Unit at (210) 207-7020. See the Convention Facilities' vendor list for security companies and telephone numbers.

48) Handicapped Access

The Lessee shall have the responsibility of complying with the Americans with Disabilities Act (ADA) of 1990 and shall ensure that all activities do comply with said Act during the term of the contract.

Convention Facilities provides handicapped unloading areas and will inform the Lessee of convenient routes when needed.

49) Hanging

Exhibit halls in the Henry B. Gonzalez Convention Center have specific approved hanging points for exhibitors and decorators. Banners may be hung on Convention Center exterior walls with approval from the Director of Convention Facilities and only from the approved hanging hooks.

Only items approved by Facility Manager and Convention Facilities Director may be hung on Municipal Auditorium interior or exterior walls. All materials used to hang items must be removed.

50) Helium Balloons

Helium balloons are not allowed in any indoor area of Convention Facilities, except the Lower Level of the Municipal Auditorium. See Balloons.

51) Insurance

A certificate of insurance is required on all events at least sixty (60) days prior to occupancy and shall meet requirements as specified in the contract.

Prior to entering the leased premises, the Lessee will deliver to Convention Facilities a Policy or Certificate of Insurance of Commercial (or Comprehensive) General Liability coverage, including Products and Completed Operations and Personal Injury coverage, issued by a company authorized to engage in the insurance business in the State of Texas. Said Policy or Certificate of Insurance will name the Convention Facilities or Municipal Auditorium and City of San Antonio as additional insured parties.

The required policy may be purchased through the City of San Antonio by contacting Convention Facilities' Booking Department.

The policy will provide for limits of liability, which shall not be less than \$1,000,000.00 with at \$2,000,000.00 aggregate Combined Single Limit in any one occurrence for injury or death to any person or injury or destruction of property.

The policy will require that the insurance company give Convention Facilities at least thirty (30) days advance written notice of any reduction or cancellation of the coverage during the term of this lease.

The Lessee will not occupy the leased premises or engage in any activity contemplated by the agreement at any time thereon, when the insurance policy hereby required is not in effect. The Lessee should contact the Booking Department for assistance with insurance coverage.

52) Keys

Secure keys are available for certain office spaces and meeting rooms. A key deposit is required per key. There will be a charge added to the invoice for each lost or unreturned keys signed out by an authorized representative or contractor of the Lessee.

53) Lease

San Antonio Convention Facilities has no commitment to Lessee whatsoever until an acceptable signed Lease Agreement is returned to the Booking Department by the Lessee. Without a definite Lease Agreement, reservations of days or space are merely for the convenience of the Lessee. No commitment for dates or space on behalf of Convention Facilities shall be final until Lessee signs a Lease Agreement.

54) Licenses / Permits / Taxes

The Lessee shall be responsible for acquiring and shall pay the costs of any and all licenses, permits, and taxes required by authorities having jurisdiction over Convention Facilities.

55) Lighting

Other than general lighting as covered in General Services, the Convention Facilities does not provide most special lighting requirements in exhibit halls and meeting rooms. The Lessee, after approval from the Convention Facilities, shall contact an outside lighting contractor with related costs to paid by the Lessee. Operation of all lighting equipment must be by qualified personnel.

The Lila Cockrell Theatre and Municipal Auditorium are equipped with stage lighting.

For special lighting requests in the Lila Cockrell Theatre please contact the Technical Systems Supervisor at (210) 207-8564, or for Municipal Auditorium, call Stage Manager at (210) 207-7621, to make the necessary arrangements.

56) *Lila Cockrell Theatre*

The Lila Cockrell Theatre is equipped with most of its own lighting and sound. The producers of any event in the Theatre must contact the Technical Systems Supervisor at (210) 207-8564 to arrange all aspects of stage, lighting, sound, and necessary labor.

Basic rental includes heating and cooling during show days only (unless at the request and expense of the Lessee), house and site lighting, general cleaning, and tables and chairs in lobby for display and novelty sales. Stage technician rates apply outside of regular City business hours, on holidays, and on weekends.

Only The RK Group will provide all catering and concessions in the Theatre at the request of the Lessee. All show novelties and other items for sale will be handled through them as well. Food and beverages are not allowed into the House.

Ticket takers, ushers, and security personnel are not provided by the Convention Facilities. It is the responsibility of the Lessee to contract for these at the Lessee's expense. All public shows require the use of qualified ushers. Contact the Assistant Director of Operations at (210) 207-8507, regarding all box office and ticketing procedures.

57) *Literature / Handouts / Leaflets*

Distribution of any printed materials must have prior approval by Convention Facilities or Municipal Auditorium management. A fee to clean up litter created by such distribution may be imposed. Any brochures, papers, or manuals left beyond the move-out will be recycled or thrown away by our personnel.

58) *Live Animals*

When any display includes pens or enclosures containing live animals, a protective coating such as plastic or visquine must be used to protect floors, carpet, columns, and any Convention Facilities or Municipal Auditorium equipment. Curbing must be provided to retain animals within the pens. Any live animals must have prior approval from the Convention Facilities Director.

59) *Loading Docks*

Convention Facilities exhibit hall loading docks are primarily for the use of exhibitors, decorators, and show contractors, during move-in and move-out. The contracted decorating company does **NOT** have the authority to prevent credentialed exhibitors access to the loading docks. An off-duty San Antonio Police Officer is required to oversee traffic flow around the docks during move-in and move-out.

At the Municipal Auditorium, specific dock usage arrangements must be made with the Events Coordinator at (210) 207-8518, or with the Facility Manager at (210) 207-8515.

All vehicles left on docks without authorization will be summarily towed.

60) *Marquee*

The Convention Facilities' marquee is located on the corner of Alamo and Market Streets. The Municipal Auditorium does not have a marquee for event display.

Scheduled public events are displayed on the marquee during registration and show dates only. Move-in days are not included as display dates. The number and duration of such announcements will be subject to the availability of time and space based on the Convention Facilities' overall schedule of events and other commitments regarding use of the outdoor marquee.

61) Meeting Room Service

Services include house lighting, heat and air conditioning, tables and chairs, skirting on head tables, hollow squares, and registration tables, one wired microphone and lectern, daily clean up, trash removal, and water service. All oval table covers and any additional tables for food and beverage service should be serviced by the caterer. Check with the Events Coordinator for details.

Not included are table coverings, extra microphones and lecterns which may be rented at contracted equipment rates.

62) Message Facilities

Message routing for attendees of Lessee's staff is the responsibility of the Lessee. Convention Facilities' operator will give a phone number to callers if the Lessee provides one. It is not the responsibility of Convention Facilities or its staff to forward any message. The Lessee should notify all event attendees, exhibitors, and staff of this policy.

63) Move-In / Move-Out

Meetings: Every attempt to accommodate the Lessee will be extended. If time is required the day before or after the event, and the requested space is available, the rate will be half the daily rental rate, but does not include heating or air conditioning.

Exhibitions: Additional move-in/move-out days are charged at half the daily rental and do not include either heating or air conditioning. An off-duty police officer is required to oversee dock traffic. Arrangements must be made by the Lessee with the Off-Duty Unit.

Convention Facilities will not provide equipment such as forklifts or dollies during move-in/move-out.

64) Municipal Auditorium

Because this facility is not physically connected to the Convention Facilities, varying policies may apply. The Lessee should contact the Facility Manager at (210) 207-8511, or the Events Coordinator at (210) 207-8518, to ensure compliance of regulations.

There is a list of approved caterers that must be used at the Municipal Auditorium. All other arrangements must be approved in writing by the Director of Convention Facilities.

The RK Group, is the exclusive concessionaire of the Municipal Auditorium and will be used at all events utilizing concessions.

The sale of novelties and other items must be handled through River City Merchandising as per City of San Antonio contract. Contact Wally Harding at (210) 654-4447.

For Box Office and ticketing procedures, the Lessee must contact the Assistant Director of Operations at (210) 207-8507.

65) Nails

See Staples/Tacks

66) Natural Gas

Natural Gas is not available.

67) Noise

It is the Lessee's responsibility to control exhibitors' noise levels within their respective booths so as not to disturb or disrupt other exhibitors or create a nuisance.

Convention Facilities and Municipal Auditorium have the right to monitor all noise levels to prevent disruption or nuisance to other events.

68) Novelties

The Lessee may elect to sell event-related souvenirs, programs, novelties, or merchandise during an event. All such sales shall have prior approval of Convention Facilities Management. Sales shall be administered in accordance with Convention Facilities' policies regarding novelties.

At the Convention Facilities all merchandise will be handled through The RK Group. At Municipal Auditorium River City Merchandising will provide novelty sales services.

69) Overtime Policies

Rate information can be provided by our Booking Department or the Events Coordinator. Convention Facilities audio/visual technicians will cost an additional fee per hour outside of regular business hours (Monday through Friday, 7:00 A.M. to 6:00 P.M.). Should one or more of these technicians need to arrive early or stay late or provide services during weekends/city holidays, the overtime rate on the Lessee's contract will apply.

70) Painting

All painting is prohibited in any Convention Facilities and Municipal Auditorium space.

71) Parking

The Convention Facilities and Municipal Auditorium do not provide parking areas for event attendees or Lessee staff. Occasionally, a minimum number of parking passes may be issued, dependent upon availability and other scheduled events. The Lessee must contact the Events Coordinator to make special parking arrangements when necessary.

72) Payment

It is imperative that the Lessee's name on the Lease Agreement be used when making advance and/or final payments to Convention Facilities to ensure proper crediting. Rental balance is due in accordance with the Lease terms. Failure to comply with this Article of the Lease Agreement may result in cancellation of the event.

73) Permits

See Licenses/Permits/Taxes.

74) Pets

With the exception of seeing eye dogs and animals entered in contracted shows such as dog and cat shows, pets are not allowed in the Convention Facilities and Municipal Auditorium.

75) Plants

Plants are neither available nor provided through Convention Facilities. The Lessee may make arrangements at its own expense through an outside decorator or other contractor.

76) Police Officers

Certain functions of the Lessee's event may require one or more off-duty San Antonio Police Officers, to be contracted and paid for by the Lessee. Any function serving alcohol, one that is open to the public, traffic control, and move-in/move-out of exhibit halls must utilize at least one officer.

All overnight security in any area of the Convention Facilities or Municipal Auditorium must be provided by the Off-Duty Employment Unit. Contracted security guards may not perform overnight security duties.

It is the responsibility of the Lessee to contact the Off-Duty Employment Unit at (210) 207-7020, to make the necessary arrangements.

77) Posters / Signage

Posters are to be mounted on easels or individual holders.

All signage must be of a printed nature and meet the approval of the Convention Facilities and Municipal Auditorium. This policy also is applicable to the posting of signs in exhibit booths and exhibition halls. No signage may be affixed to walls, doors or glass, and only easels may be used. Any extra labor to remove signage or repair damage will result in additional fees to Lessee.

At move-out, all posted signage must be removed by the service contractor or Lessee. If any Lessee leaves materials in or on Convention Facilities property, the contractor or Lessee will be billed for labor to remove signage.

78) Propane

Please refer to the Fire Regulations Packet.

79) Raffles

Raffles with the exchange of money require prior approval of Convention Facilities Management and, in some situations, such as fire arms or other weapons, approval from the State of Texas and the County of Bexar or City of San Antonio. See Free Items and Give-Aways.

80) Recycling

Convention Facilities recycles cardboard, aluminum, pallets, and unserved food. Please contact the Events Coordinator for details.

81) Refunds

When a refund of charges or a portion thereof is estimated due, the City of San Antonio Finance Office, through Convention Facilities' Fiscal Office, will issue a check payable to the Lessee in 6-8 weeks of refund order.

82) Registration

Reasonable space will be made available for registration purposes as deemed appropriate by the Convention Facilities and the City Fire Marshal, if available, and in consideration of other Lessees renting other meeting or exhibit areas in the Convention Facilities during the same period.

83) Rental Rates

For room rental rates and to check availability, please contact the Booking & Services Division at 210-207-8500.

84) Rice

The use or throwing of rice, glitter, or confetti is prohibited inside any Convention Facilities space. Disregard of this policy will result in a clean-up fee to affected areas. See Cascarones, Confetti, and Glitter.

85) Rigging

When shows require the rigging of lighting, sound equipment, or signs, the Lessee shall follow Convention Facilities' rigging instructions which delineates specific locations for rigging points.

Refer all rigging questions for the Convention Facilities to the Technical Systems Supervisor at (210) 207-8564. The Stage Manager may be reached at (210) 207-5774 should the Technical Systems Supervisor be unavailable.

86) Risers/Staging

Facility risers do not exceed 48". If risers are needed to be larger or higher, then client will need to contract that operation with an outside vendor.

87) Samples

Permission to distribute or dispense, without charge, any samples of food, beverages, refreshments, sundries related to the trade show, etc., shall be arranged in advance and be clearly stated and identified as further Terms and Conditions to the Lease Agreement. Convention Facilities reserves the right to regulate the size and type of samples. All sampling requires the written consent of the Director of Convention Facilities.

88) Security

The Convention Facilities provides a 24-hour security patrol around the facility. These patrols do not constitute a guarantee to the Lessee's property or the property of exhibitors, attendees, or other parties. If valuable items need to be secured by either the Lessee or the exhibitor, additional security coverage should be contracted. All overnight security must be arranged through the San Antonio Off-Duty Employment Unit at (210) 207-7020. Public events, concerts, functions serving alcohol, and move-in and move-out areas also require the presence of at least one off-duty San Antonio police officer, the number to be determined by that office. This is in addition to any other security contracted by the Lessee.

The Lessee also may check with the Events Coordinator for possible secure-key checkout.

89) Service Contractors

The Events Coordinator or the Booking Department can recommend a list of service contractors that provide services beyond those available through the Convention Facilities or Municipal Auditorium. These include audio/visual, booth furnishings, business equipment, and decorator services. Payment to all service contractors is the responsibility of the Lessee. See Event Vendor Services Listings on website.

90) Signage

See Posters.

91) Skirting

Convention Facilities will skirt 6' and 8' head and registration tables designated by the Lessee if those tables are provided by Convention Facilities. For exhibitor tables contact the show decorator; for banquet ovals contact the caterer. Due to limited number and colors, the Lessee should consult the Events Coordinator regarding availability and necessity.

92) Sound

The exhibit halls, meeting rooms, Lila Cockrell Theatre, and Municipal Auditorium are equipped with state-of-the-art sound systems. Outside audio/visual contractors and the Lessee may patch (*at current rates*) into and out of house systems under the supervision of a Convention Facilities sound technician for the duration of daily usage. In some cases, the prevailing overtime rate for these sound technicians will apply. If special sound is required, the Lessee should contact the Technical Systems Supervisor at (210) 207-8564, to make the appropriate arrangements, or for Municipal Auditorium, call the Stage Manager at (210) 207-7621.

93) Spray Paint

See *Painting*.

94) Stage Hands

When use of Convention Facilities' requires the use of stage hands, all stage requirements must be confirmed with the Technical Systems Supervisor at (210) 207-8564 prior to occupancy. All charges for services involving the stage hands are the responsibility of the Lessee.

95) Staples / Tacks / Nails

The driving of nails, tacks, staples, or screws into floors, walls, columns, ceilings, tables, chairs, or risers is expressly prohibited. Holes may not be drilled into any portion of the Convention Facilities.

96) Stickers

The use of stickers on any Convention Facilities surface is prohibited. A fee will be imposed on the Lessee to remove any such adhesive material from Convention Facilities property.

97) Tape

The use of double-faced tape on Convention Facilities floors, walls, or furniture is prohibited. The use of tape of any type on painted surface is prohibited. Only masking tape or decorator tape may be used on concrete (exhibit halls) floor surfaces.

Special tape is required for use on carpeted, tiled and parquet floor surfaces, and may be purchased on site. Contact your Events Services Coordinator for details.

It is ultimately the responsibility of the Lessee to ensure that their service contractors remove all tape from the floor surfaces during move-out of the event. Should tape be left over from an event, the Lessee will be billed for the labor required remove the tape.

The Lessee will be billed labor and materials for damages resulting from non-adherence to these tape requirements.

98) Taxes

See Licenses/Permits/Taxes.

99) Telecommunications/Data

The Convention Facilities or Municipal Auditorium does not provide telephone/data service for Lessee or exhibitors. Within the Convention Facilities and Municipal Auditorium, all phone/data service must be provided by Smart City, the exclusive phone/data service contractor. This includes regular telephone lines, data and network connections. Contact Sylvia Herrera, Branch Manager, at (210) 207- 8900.

100) Television Monitors

Television hookup in the exhibit halls will require the use of electricity from one of our approved outside electrical contractors. Televisions may be obtained through the outside A/V contractor, as Convention Facilities does not provide televisions for any meeting, stage, or exhibit area. Cable service can be obtained through Time Warner Cable at (210) 244-0500.

101) Theatre

See Lila Cockrell Theatre.

102) Ticketing

The producers of any box office / ticketed event is required to use Ticket Master for all ticketing. To make all necessary ticketing / box office arrangements, the Lessee must contact the Department's Assistant Director for Operations at (210) 207-8507.

If specified by the Lessee's Lease Agreement, the San Antonio Convention Facilities Dept. may be entitled to a pre-arranged percentage of ticket sales to cap at a mutually agreed amount. Contact the Department's Assistant Director for Operations at (210) 207-8507, for box office and ticket policies.

103) Track Vehicles

Vehicles that operate on tracks are not allowed to operate on any floor of any building. Should a trade show require the exhibition of track vehicles, they must be carted on a wheeled trailer and unloaded onto floor tracks. The vehicle is to remain on these floor tracks until properly removed. Said vehicle must also comply with the policies established in the Fire Regulations packet.

104) Trash Removal

A disposal fee will be charged to the Lessee if there is a requirement for open-top container dumping during the event, including move-in and move-out, from excessive debris such as stage sets, et cetera. The current open-top container rate will apply.

Trash pick-up during meetings and trade shows will be performed as necessary during the event from Convention Facilities' receptacles only.

In the Convention Facilities and Municipal Auditorium any trash clean up which requires extra labor will incur an additional charge at the determination of the Events Coordinator.

105) Truck Docks

See Loading Docks

106) Unions

Stagehands and many contractor personnel may be union members. The Lessee should check with each contractor about their labor. The use of Convention Facilities and Municipal Auditorium stage equipment must be by qualified personnel. As a right-to-work state, the use of union labor is not required by the Convention Facilities.

107) Ushers

Qualified ushers should be used for all ticketed events, especially those in the Lila Cockrell Theatre. Municipal Auditorium requires the use of ushers for all public events: 24 ushers for first level only plus a supervisor, as well as 2 to 4 ticket takers plus one supervisor. The incurred fees are the responsibility of the Lessee.

108) Utility Services

Telephone, A/V, and electrical needs are not supplied by Convention Facilities. It is the responsibility of the Lessee to secure these utilities for exhibitors and Lessee staff through approved contractors. All fees are the responsibility of the Lessee. **See Event Vendor Services Listings** on website

109) Water Service

The Convention Facilities provides water service only for head tables. If additional service or individual water bottles are needed, contact the RK Group at (210) 225-4535.

EXHIBIT B
AVHQ Standard Operating Rules

AVHQ has 30 days from the execution of the agreement to provide their standard operating rules. See section 3.2 of the agreement.

EXHIBIT C
Designated Areas Floor Plan

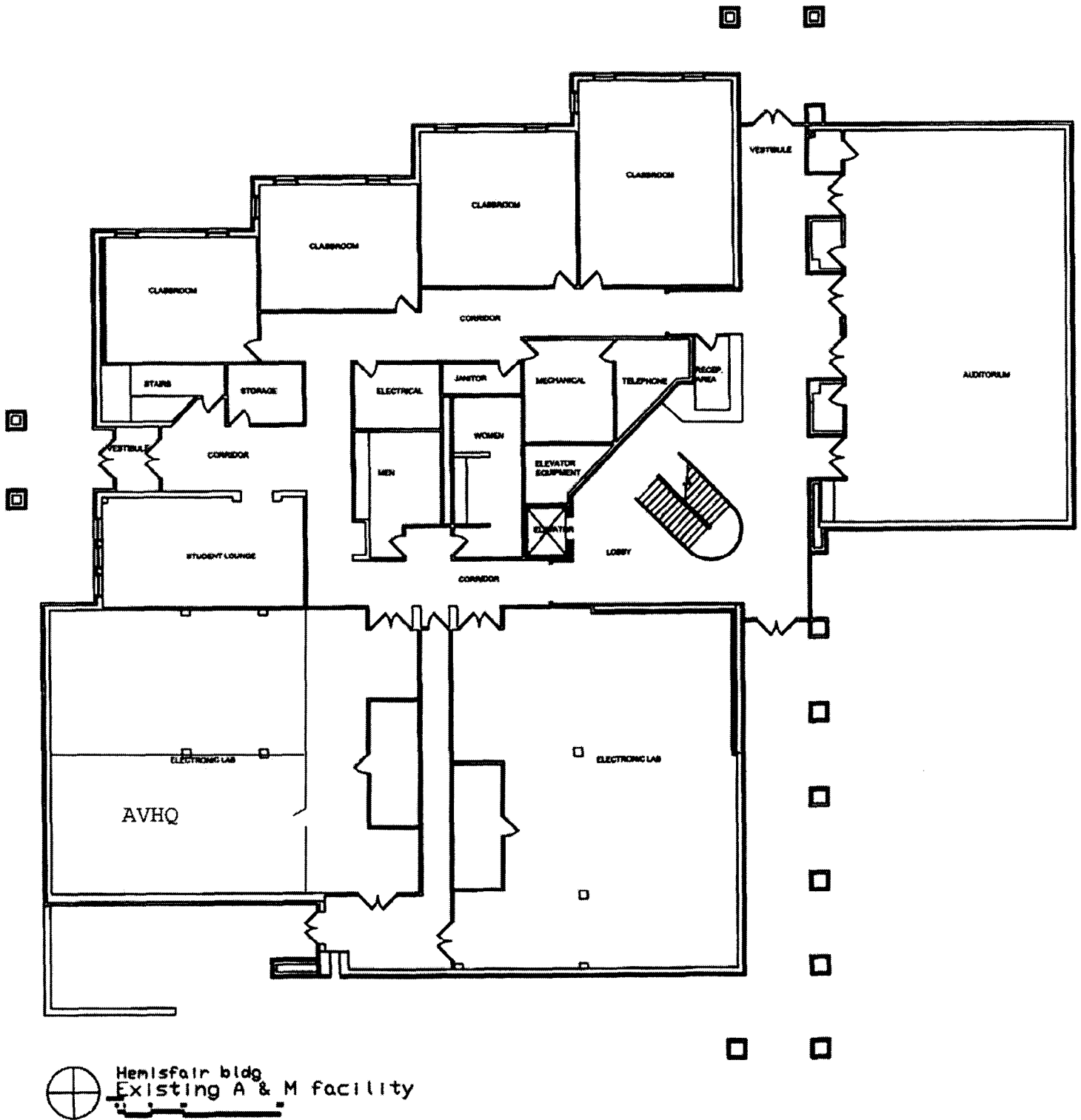


EXHIBIT D
Good Faith Effort Plan

O. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA) POLICY

GOOD FAITH EFFORT PLAN

NAME OF PROJECT: Preferred Audio/Visual Services Provider

BIDDER/PROPOSER INFORMATION:

Name of Bidder/Proposer: Audiovisual Headquarters

Address: 111 West Ocean Boulevard , Suite 1110

City: Long Beach State: CA Zip Code: 90802

Telephone: (562) 366-0620 E-mail Address: jstowe@avhq.com

Is your firm certified? Yes ☒ No (If yes, please submit Certification Certificate.)

1. List all subcontractors/suppliers that will be used for this contract. (Indicate all MBEs-WBEs-AABEs-SBEs. Use additional sheets as needed.)

NAME AND ADDRESS OF SUBCONTRACTOR'S/SUPPLIER'S COMPANY	CONTRACT AMOUNT	% LEVEL OF PARTICIPATION	MBE-WBE-AABE- SBE CERTIFICATION NUMBER
Undetermined at this time			
Undetermined at this time			
Undetermined at this time			
Undetermined at this time			
Undetermined at this time			
Undetermined at this time			
Undetermined at this time			

Only companies certified as an MBE, WBE, AABE or SBE by the City of San Antonio or its certifying organization can be applied toward the contracting goals. All MBE-WBE-AABE-SBE subcontractors or suppliers must submit a copy of their certification certificate through the Prime Contractor. Proof of

certification must be attached to this form. If a business is not certified, please call the Small Business Program Office at (210) 207-3900 for information and details on how subcontractors and suppliers may 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 Original Affirmed List of Subcontractors/Suppliers 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.

We have not contracted any MBE-WBE-AABE-SBE organizations at this time. Upon award of the contract, AVHQ will interview qualified businesses and set up contracts with those organizations that provide professional services as it relates to our business needs.

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

We will utilize the following directories to assist us in our search: South Central Regional Certification Agency, Hispanic Chamber, Alamo City Chamber and the Small Business Outreach Division of the City of San Antonio.

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

No others have been solicited at this time.

5. Discuss all efforts aimed at utilizing MBE-WBE-AABE-SBE's.

Upon award of the contract, AVHQ will put forth a good faith effort aimed at utilizing MBE-WBE-AABE-SBE's businesses.

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

We have not used any advertisement mediums to solicit bids from MBE-WBE-SBE's.

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

COMPANY NAME	MBE-WBE-AABE-SBE CERTIFICATION NUMBER	REASON FOR REJECTION
NA		
NA		
NA		
NA		

8. Please attach a copy of your company's MBE-WBE-AABE-SBE policy.

While the Company itself does not qualify as a MBE-WBE-AABE-SBE and does not have specific programs relating to the same, AVHQ is an equal opportunity employer and we maintain strict policies against all forms of discrimination based upon protected class status.

9. Name and phone number of person appointed to coordinate and administer the Good Faith Efforts of your company on this project.

John Stowe, 713-680-8360

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

AFFIRMATION

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER UNDERSTAND AND AGREE THAT, IF AWARDED THE CONTRACT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

John G. Stone
SIGNATURE OF AUTHORIZED OFFICIAL

Director of Sales, AVHQ
TITLE OF OFFICIAL

3/14/05 214-210-8044
DATE PHONE

FOR CITY USE

Plan Reviewed By: _____

Recommendation: Approval _____ Denial _____

Action Taken: Approved _____ Denied _____

DIRECTOR OF ECONOMIC DEVELOPMENT

EXHIBIT E
Provider's Pre-Booked Events

**AVHQ SAN ANTONIO
BOOKED BUSINESS
AS OF 5/26/05**

GROUP	Event ID	DATE	REVENUE	STATUS
American Association of Law Libraries	25494	Jul-05	\$50,000	Booked
Industrial Fabrics Association International	25574	Oct-05	\$35,000	Booked
American Library Association	25222	Jan-06	\$200,000	Booked
International City/County Management Association	25724	Sep-06	\$120,000	Booked
		Total	\$405,000	

City of San Antonio
Discretionary Contracts Disclosure

*For use of this form, see Section 2-59 through 2-61 of the City Code (Ethics Code)
Attach additional sheets if space provided is not sufficient.*

(1) Identify any individual or business entity¹ that is a *party* to the discretionary contract:

This does not apply to anyone in our organization.

(2) Identify any individual or business entity which is a *partner, parent* or *subsidiary* business entity, of any individual or business entity identified above in Box (1):

☒ **No partner, parent or subsidiary; or**

List partner, parent or subsidiary of each party to the contract and identify the corresponding party:

(3) Identify any individual or business entity that would be a *subcontractor* on the discretionary contract.

☒ **No subcontractor(s); or**

List subcontractors:

(4) Identify any *lobbyist* or *public relations firm* employed by any party to the discretionary contract for purposes related to seeking the discretionary contract.

☒ **No lobbyist or public relations firm employed; or**

List lobbyists or public relations firms:

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. A sole proprietor should list the name of the individual and the d/b/a, if any.

(5) Political Contributions

List all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made 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 Box (1), (2), (3) or (4) above, or by the officers, owners of any business entity listed in Box (1), (2) or (3):

☒ No contributions made; If contributions made, list below:

By Whom Made:	To Whom Made:	Amount:	Date of Contribution:


(6) Disclosures in Proposals

Any individual or business entity seeking a discretionary contract with the city must disclose any known facts which, reasonably understood, raise a question² as to whether any city official or employee would violate Section 2-43 of the City Code (Ethics Code), ("conflicts of interest") by participating in official action relating to the discretionary contract.

☒ Party not aware of facts which would raise a "conflicts-of-interest" issue under Section 2-43 of the City Code; or

Party aware of the following facts:

This form is required to be supplemented in the event there is any change in the information 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, whichever occurs first.

Signature:  John A. Stowe	Title: Director of Sales Development Company or D/B/A: Audio Visual Services Group, Inc (dba) Audiovisual Headquarters	Date: 5/25/05
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² For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.