

**CITY OF SAN ANTONIO
PUBLIC WORKS DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Thomas G. Wendorf, P.E., Director of Public Works

SUBJECT: Execution of an Advance Funding Agreement and an Agreement for Furnishing and Installing of Traffic Signal Equipment by a Municipality with the Texas Department of Transportation (TxDOT)

DATE: September 1, 2005

SUMMARY AND RECOMMENDATIONS

This ordinance authorizes the City Manager or his designee to execute two agreements with the Texas Department of Transportation (TxDOT) in connection with the installation of traffic signals at the intersections of Bulverde Road and Classen Road and Loop 1604 & Bulverde Road, located in Council District 10. The first agreement is an "Advance Funding Agreement" in an amount not to exceed \$72,161.60 payable to TxDOT for the installation of a traffic signal at the intersection of Bulverde Road and Classen Road and the second agreement is an "Agreement for the Furnishing of Traffic Signal Equipment by a Municipality" in an amount not to exceed \$15,125 payable by TxDOT to the City of San Antonio for the purchase of materials and installation of traffic signal equipment at the intersection of Loop 1604 & Bulverde Road.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

TxDOT will be completing the installation of a traffic signal at the intersection of Loop 1604 and Bulverde Road and the City of San Antonio has planned the installation of a traffic signal at the Bulverde Road and Classen Road intersection, which is approximately 400 feet south of the Loop 1604 and Bulverde Road intersection. This location is listed on the FY 2005 Signal Installation and Signal Upgrade Program schedule. In order to effectively address the operational challenges presented by the proximity of these two intersections and to optimize traffic signal construction, TxDOT and City staff are coordinating the installation of the two signals.

Given that TxDOT will be constructing their traffic signal before the City would be able to complete the construction of its signal at the Bulverde Road and Classen Road intersection, it was determined that having TxDOT install the City's signal would be beneficial to both the City and TxDOT and would help minimize traffic interruptions in this area.

Additionally, as a way of ensuring compatibility between the two signals, TxDOT has agreed to design their traffic signal to City of San Antonio standards. This requires the use of City control cabinets and calls for City staff to perform the installation of these cabinets at the intersection of Loop 1604 & Bulverde Road. TxDOT will reimburse the City of San Antonio for these materials.

This ordinance authorizes an "Advance Funding Agreement" in an amount not to exceed \$72,161.60, which provides the funding necessary to pay TxDOT to complete the installation of the traffic signal at the Bulverde Road and Classen Road intersection. This ordinance also authorizes an "Agreement for the Furnishing of Traffic Signal Equipment by a Municipality" in an amount not to exceed \$15,125 payable to the City of San Antonio for the purchase of materials needed for the traffic signal at Loop 1604 and Bulverde Road.

This project will be constructed under TxDOT's Non-Site Specific Traffic Signal Construction Contract. A work order will be issued within 30 days of the execution of these agreements.

POLICY ANALYSIS

Approval of this ordinance will be a continuation of City Council policy to collaborate with other governmental agencies in the development and construction of City infrastructure and to upgrade traffic signals, as funds are made available.

FISCAL IMPACT

Funds in the amount of \$72,161.60 are available from the FY 2005 Signal Installation and Signal Upgrade Program, which was approved by Council on September 30, 2004 through Ordinance No. 99818, and are authorized payable to the Texas Department of Transportation.

The provisions of this agreement require the Texas Department of Transportation to reimburse the City of San Antonio an amount not to exceed \$15,125 for expenses incurred in providing and installing the equipment needed for the traffic signal at Loop 1604 and Bulverde Road.

COORDINATION

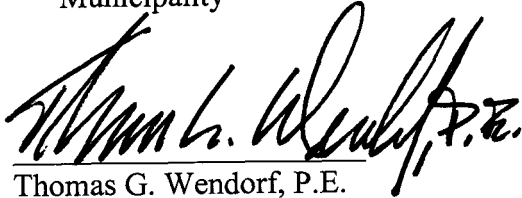
This request for ordinance has been coordinated with the Office of Management and Budget, the Finance Department and TxDOT.

SUPPLEMENTARY COMMENTS

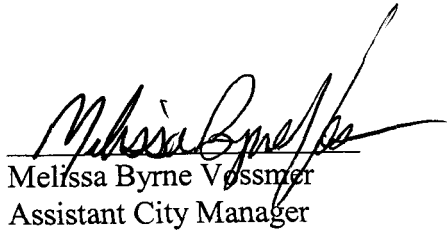
A Discretionary Contracts Disclosure Form is not required.

ATTACHMENTS

1. Area Map
2. Advanced Funding Agreement
3. Agreement For Furnishing and Installing of Traffic Signal Equipment By a Municipality



Thomas G. Wendorf, P.E.
Director of Public Works



Melissa Byrne Vossmer
Assistant City Manager



J. Rolando Bono
City Manager



County: Bexar

Location: Bulverde and Classen Road

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT FOR VOLUNTARY

Local Government Contributions

to TRANSPORTATION IMPROVEMENT

PROJECTS with no required match

THIS AGREEMENT IS MADE BY AND BETWEEN the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State", and the City of San Antonio, acting by and through its duly authorized officials, hereinafter called the "Local Government."

WITNESSETH

WHEREAS, Transportation Code, Chapters 201, 221, 227, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

WHEREAS, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and,

WHEREAS, Commission Minute Order Number 108087 authorizes the State to undertake and complete a highway improvement generally described as the installation of traffic signals Districtwide (San Antonio District); and,

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as the installation of a traffic signal at Bulverde and Classen Road, described as Change Order No. 5 (Exhibit A), hereinafter called the "Project"; and,

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept

and performed as hereinafter set forth, the State and the Local Government do agree as follows:

AGREEMENT

Article 1. Time Period Covered

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and the Local Government will consider it to be in full force and effect until the Project described herein has been completed and accepted by all parties or unless terminated, as hereinafter provided.

Article 2. Project Funding and Work Responsibilities

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract.

In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

Article 3. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

Article 4. Adjustments Outside the Project Site

The Local Government will provide for all necessary right-of-way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

Article 5. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 6. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider.

Article 7. Interest

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

Article 8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated herein by reference, or special specifications approved by the State.

Article 9. Increased Costs

In the event it is determined that the funding provided by the Local Government will be insufficient to cover the State's cost for performance of the Local Government's requested work, the Local Government will pay to the State the additional funds necessary to cover the anticipated additional cost. The State shall send the Local Government a written notification stating the amount of additional funding needed and stating the reasons for the needed additional funds. The Local Government shall pay the funds to the State within 30 days of the written notification, unless otherwise agreed to by all parties to this agreement. If the Local Government cannot pay the additional funds, this contract shall be mutually terminated in accord with Article 10 - Termination. If this is a fixed price agreement as specified in Attachment A, Payment Provision and Work Responsibilities, this provision shall only apply in the event changed site conditions are discovered or as mutually agreed upon by the State and the Local Government.

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the local government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

Article 10. Maintenance

Upon completion of the Project, the State will assume responsibility for the maintenance of the completed Project unless otherwise specified in Attachment A to this agreement.

Article 11. Termination

This agreement may be terminated in the following manner:

- by mutual written agreement and consent of both parties;
- by either party upon the failure of the other party to fulfill the obligations set forth herein;
- by the State if it determines that the performance of the Project is not in the best interest of the State.

If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.

- Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

12. Notices

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

Local Government:	State:
The City of San Antonio	Texas Department of Transportation
Attn: Mr. Thomas G. Wendorf, P.E.	Attn: Melissa Jordan, CCMO
Director of Public Works, City of San Antonio	P.O. Box 29928
P.O. Box 839966	San Antonio, Texas 78229-0928
San Antonio, TX 78283-3966	

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

Article 13. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

Article 14. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

Article 15. Amendments

By mutual written consent of the parties, this contract may be amended prior to its expiration.

Article 16. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

Article 17. Insurance

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

Article 18. Signatory Warranty

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party they represent.

IN WITNESS WHEREOF, THE STATE AND THE LOCAL GOVERNMENT have executed duplicate counterparts to effectuate this agreement.

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____
Date _____

District Engineer

THE LOCAL GOVERNMENT

Name of the Local
Government _____

By _____
Date _____

Typed or Printed Name and
Title _____

Attachment A

Insert a Project Budget And Description Such As:

Project Budget and Description

The Local Government will be responsible for a fixed amount of the work necessary to install a traffic signal at Bulverde and Classen Road, which is an off-system location. The Local Government's estimated cost of this work is \$72,161.60, including construction items, and engineering and contingencies. The actual costs shall be exclusive of preliminary engineering and indirect costs. The State has estimated the project to be as follows:

Description	Total	Federal		State		Local	
		Participation		Participation		Participation	
	Estimate Cost	%	Cost	%	Cost	%	Cost
CONSTRUCTION COSTS							
Construction of traffic Signal	\$64,718.92	0%	\$0.00	0%	\$0.00	100%	\$64,718.92
Subtotal	\$64,718.92		\$0.00		\$0.00		\$64,718.92
Engineering & contingencies (E&C)**	\$7,442.68	0%	\$0.00	0%	\$0.00	100%	\$7,442.68
(Estimated @11.5% of construction)							
E & C Indirect Costs	\$0.00	0%	\$0.00	0%	\$0.00	100%	\$0.00
(Estimated @ 5.62% of construction)							
(No local participation requirement)							
TOTAL	\$72,161.60	\$0.00		\$0.00		\$72,161.60	

Local Government's Participation (100%) = \$72,161.60

It is understood that the proposed improvements will be done by the State and the Local Government will transmit to the State with the return of this Agreement, executed by the Local Government, a warrant or check in the amount of \$72,161.60 made payable to the "Texas Department of Transportation" to be used solely for the cost of improvements as requested by the Local Government.

Actual Cost Agreement

In the event, it is determined by the State that the funding provided by the Local Government will be insufficient to cover the State's costs under this agreement, the Local Government, upon written notification by the State will supplement this amount within 30 calendar days of receipt of notice from the State, in an amount equal to the Local Government's full estimated or actual share of the cost of the work, less any amount previously provided to the State. Any overruns, change orders, supplemental agreements or additional work orders which may, according to the judgment of the State, become necessary subsequent to the award of the construction contract shall be the financial responsibility of the Local Government. In the event the amount provided by the Local Government is more than the actual cost of the Local Government's share, established herein, then the excess amount will be returned to the Local Government once the project has been completed and closed out.

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT FOR FURNISHING AND INSTALLING OF
TRAFFIC SIGNAL EQUIPMENT BY A MUNICIPALITY**

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, hereinafter called the "State," and the City of San Antonio, Bexar County, Texas, hereinafter called the "City," acting by and through its duly authorized officers as evidenced by Resolution/Ordinance No. _____, hereinafter acknowledged by reference.

WITNESSETH

WHEREAS, the State owns and maintains a system of highways and roadways, including Loop 1604 in the City of San Antonio; and

WHEREAS, the City has requested the State to reimburse the cost of furnishing and installing traffic signal equipment at the intersection(s) of Loop 1604 at Bulverde Rd., hereinafter called the "Project," and

WHEREAS, the State and City wish to cooperate in the construction of this Project; and

WHEREAS, the City desires that equipment be provided that is compatible with standard signal operation and/or existing City equipment; and

WHEREAS, it is in the best interest of the City and the State for the City to assist the State by furnishing and installing traffic signal equipment on the Project; and

WHEREAS, on this 27 day of January, 2000, the Texas Transportation Commission passed Minute Order No. 108087 approving the Project; and

WHEREAS, the Project has been designated as a federal-aid project and thus this agreement shall be made in accordance with Federal Highway Administration (FHWA) procedures and regulations; and

WHEREAS, the State is authorized to enter into an agreement with the City for the Project pursuant to Transportation Code, §221.002;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

Article 1. CONTRACT PERIOD

This agreement becomes effective on final execution by the State and shall remain in effect as long as said traffic signal equipment is in operation at the described location and the signal project is incomplete, or unless otherwise terminated or modified as hereinafter provided.

Article 2. CONSTRUCTION RESPONSIBILITIES

- A. For all items of construction other than furnishing and installing specific traffic signal equipment, the State will prepare the construction plans, advertise for bids, and let the construction contract, or otherwise provide for the construction and will supervise the construction as required by said plans. The State will secure the City's approval of construction plans prior to award of contract.
- B. The furnishing and installing of specific traffic signal equipment will be part of the construction to be undertaken by the City, and the State will reimburse the City for its contribution to the Project, as prescribed under Article 3, "Compensation."

Article 3. COMPENSATION

- A. The maximum amount under this agreement without modification is \$15,125.00. A cost estimate of the work authorized under this agreement is marked "Exhibit A," attached hereto and made a part of this agreement.
- B. The State will reimburse the City the cost of furnishing and installing the traffic signal equipment according to the location and manner of construction as shown and described in the plans and specifications.
- C. The State will reimburse the City for properly supported costs incurred under the terms and conditions of this agreement. Costs incurred prior to the issuance of a written "Work Order" by the State will not be reimbursed. Reimbursement will be made by the State to the City for labor, equipment use, materials, supplies, travel expenses, and warehouse or material handling charges provided the City has paid from City funds their obligations covering items of costs previously billed.
- D. The City shall comply with the cost principles established in OMB Circular A-87, "Cost Principles for State and Local Governments."

Article 4. PAYMENTS

- A. The City shall submit the State's Form 132, Billing Statement, or other type of invoice acceptable to the State upon completion of the Project and the State's acceptance thereof.
- B. An original and four (4) copies of the Billing Statement should be submitted to the following address:

Mr. Dale L. Picha, P.E., District Traffic Engineer
 Texas Department of Transportation
 P.O. Box 29928
 San Antonio, Texas 78229-0928

- C. All billing statements shall be properly documented, summarizing the costs and description of work performed, quantity of materials and devices, unit price, labor costs, and extensions.
- D. The State shall make payment to the City within thirty (30) days from receipt of the City's request for payment, provided that the request is properly prepared, executed, and documented.
- E. Unsupported charges or charges after final acceptance by the State will not be considered eligible for reimbursement. The State will prepare a final audit upon completion of the work authorized or at any time an audit is deemed to be in the best interest of the State.

Article 5. PERSONNEL, EQUIPMENT, AND MATERIAL

- A. The City will use labor and supervisory personnel employed directly by the City, and use City-owned machinery, equipment, and vehicles necessary for the work. In the event that

the City does not have the necessary machinery, equipment, and vehicles necessary to perform the work, the machinery, equipment, and vehicles may be rented or leased as necessary at the low bid price submitted by at least two approved bidders.

- B. Reimbursement for the use of materials purchased by other than competitive bid procedures will be made only if such procedures are shown to be in the public interest and provided the State shall have given prior approval for the use of said materials. All materials used for the work shall be new and undepreciated.

Article 6. INSPECTION OF WORK

- A. The State shall make suitable, frequent, and complete inspection of all materials, and equipment and the work of installation to determine and permit certification that the Project and its components meet all applicable requirements of the plans and specifications in suitable condition for operation and maintenance by the City after its completion.
- B. The City will provide opportunities, facilities, and representative samples, as may be required, to enable the State to carry suitable, frequent, and complete inspection of all materials, and application methods, sufficient to afford determination and certification by the State that all parts of the installation and the component materials comply with the requirements of the approved plans and specifications. The State will promptly notify the City of any failure of materials, equipment, or installation methods, and the City will take such measures as necessary to obtain acceptable systems components and installation procedures without delay.

Article 7. TERMINATION

- A. This agreement may be terminated by one of the following conditions:
 - (1) By mutual agreement and consent of both parties.
 - (2) By the State giving written notice to the City as a consequence of failure by the City to perform the services and obligations set forth in a satisfactory manner and within the limits provided, with proper allowances being made for circumstances beyond the control of the City.
 - (3) By either party, upon thirty (30) days written notice to the other.
- B. If, at any time, the City fails to assume the construction responsibilities as prescribed herein or the maintenance and operation responsibilities for the City's portion of the traffic signal equipment in a satisfactory manner as determined by the State, the State reserves the right to assume the construction responsibilities and/or to arrange for the maintenance and operation responsibilities at the expense of the City.

Article 8. INDEMNIFICATION

The City acknowledges that it is not an agent, servant, or employee of the State and thus, is responsible for its own acts and deeds and for those of its agents or employees during the performance of the work defined in this agreement.

Article 9. REMEDIES

Violation or breach of contract terms by the City shall be grounds for termination of the agreement, and any increased cost arising from the City's default, breach of contract, or violation of terms shall be paid by the City. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

Article 10. DISPUTES

Should disputes arise as to responsibilities and obligations as set forth in this agreement, the State's decision shall be final and binding.

Article 11. SUBLETTING

The City shall not sublet or transfer any portion of its responsibilities and obligations under this agreement unless specifically authorized in writing by the State. In the event subcontracts are entered into by the City, the subcontractors must adhere to the provisions of this agreement.

Article 12. AMENDMENTS

Changes in the time frame, character, responsibilities, or obligations authorized herein shall be enacted by written amendment. Any amendment to this agreement must be executed by both parties.

Article 13. INSURANCE (Mark out the following paragraph that is not applicable)**A. Outside Insurance**

~~Prior to the City performing any work on this Project, the City shall furnish to the State a completed Certificate of Insurance (Form 20.102, latest version) and shall maintain the insurance in full force and effect as long as this Project lasts and the City is responsible for the furnishing, installing, maintenance and operation of the herein mentioned traffic signal equipment.~~

B. Self Insured

Prior to the City performing any work on this Project, the City shall furnish to the State a completed Certificate of Insurance (Form 20.102, latest version) and shall maintain its self-insurance program in full force and effect as long as this Project lasts and the City is responsible for the furnishing, installing, maintenance and operation of the traffic signal equipment. The State understands that the City is a self insured entity for public liability purposes.

Article 14. SUCCESSORS AND ASSIGNS

The City shall not assign or otherwise transfer its rights or obligations under this agreement except with the prior written consent of the State.

Article 15. NOTICES

All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

City:	State:
Mr. Thomas G. Wendorf, P.E.	Mr. Marc S. Jacobson, P.E.
Director of Public Works, City of San Antonio	Assistant District Traffic Engineer
P.O. Box 839966	P.O. Box 29928
San Antonio, TX 78283-3966	San Antonio, TX 78229

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 16. INSPECTION OF CITY'S BOOKS AND RECORDS

A. The State shall, for purpose of termination of the agreement prior to completion, examine the books and records of the City for the purpose of checking the amount of the work performed and/or materials furnished by the City at the time of contract termination. The City shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this contract and shall make such materials available to the State, Federal Highway Administration (FHWA) or its duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of final payment under this contract or until impending litigation is resolved. Additionally, the State, FHWA and its duly authorized representatives shall have access to all records of the City which are directly applicable to this contract for the purpose of making audits, examinations, excerpts, and transcriptions.

B. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

Article 17. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Article 18. GOVERNING LAWS AND VENUE

This agreement shall be construed under and in accordance with the laws of the State of Texas. Any legal actions regarding the parties' obligations under this agreement must be filed in Travis County, Texas.

Article 19. PRIOR AGREEMENTS SUPERSEDED

This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter.

Article 20. OMB 1-128 AUDIT REQUIREMENTS

The City shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in paragraphs 6, 8, and 9 of OMB Circular No. A-128.

Article 21. PROCUREMENT STANDARDS

The City shall adhere to the procurement standards set forth in Title 49 CFR Part 18.32.

Article 22. PROPERTY MANAGEMENT STANDARDS

The City shall adhere to the property management standards set forth in Title 49 CFR Part 18.36.

Article 23. COMPLIANCE WITH LAWS

The City shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court, administration bodies, or tribunals in any matter affecting the performance of the agreement, including without limitation worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws, permits, and regulations. When required, the City shall furnish the State with satisfactory proof of compliance.

Article 24. CIVIL RIGHTS COMPLIANCE

The City shall comply with the regulations of the Department of Transportation as they relate to nondiscrimination (49 CFR 21 and 23 CFR 710.405 (B)); also Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in the Department of Labor regulation (41 CFR 60).

Article 25. MINORITY BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

The City agrees to comply with the requirements set forth in Exhibit B, "Minority Business Enterprise Program Requirements."

Article 26. DEBARMENT CERTIFICATIONS (Applicable to agreements which exceed \$100,000)

The City is prohibited from making any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. The City shall require any party to a subcontract or purchase order awarded under this contract as specified in Title 49 of the Code of Federal Regulation, Part 29 (Debarment and Suspension) to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

IN WITNESS WHEREOF, the State and the City have signed duplicate counterparts of the agreement.

THE CITY OF _____

Executed on behalf of the City by:

By _____ Date _____

Typed or Printed Name and Title _____

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
District Engineer

COST ESTIMATE**FOR****CITY OF SAN ANTONIO FORCE ACCOUNT WORK**

Control: 0915-00-107
Highway: Intersection of Loop 1604 at Bulverde Rd.

Furnish and Install Traffic Signal Equipment at 1 Intersection	\$15,125.00
TOTAL	\$15,125.00

Exhibit A

SPECIAL PROVISION

MINORITY BUSINESS ENTERPRISE REQUIREMENTS

It is the policy of the Department of Transportation that Minority Business Enterprises as defined in 49 CFR Part 23, Subpart A, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the Minority Business Enterprise requirements of 49 CFR Part 23, exclusive of Subpart D, apply to this contract as follows.

The County agrees to ensure that Minority Business Enterprises, as defined in 49 CFR Part 23, Subpart A, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the County shall take all necessary and reasonable steps in accordance with 49 CFR Part 23, exclusive of Subpart D, to ensure that Minority Business Enterprises have the Maximum opportunity to compete for and perform contracts.

The County and any of its subcontractors shall not discriminate on the bases of race, color, national origin or sex in the award and performance of contracts funded in whole or in part with Federal funds.

These requirements shall be physically included in any subcontract.

Failure to carry out the requirements set forth above shall constitute a breach of contract and, after the notification of the Department, may result in termination of the contract by the State or other such remedy as the State deems appropriate.

Exhibit B