

**CITY OF SAN ANTONIO  
FINANCE DEPARTMENT  
CITY COUNCIL AGENDA MEMORANDUM**

CONSENT AGENDA  
ITEM NO. 45

**TO:** Mayor and City Council

**FROM:** Milo Nitschke, Director, Finance Department

**SUBJECT:** Ordinance to hire KPMG L.L.P., Leal and Carter, P.C., and Robert J. Williams, CPA, to provide the City with independent audit services for the fiscal year ending September 30, 2005

**DATE:** November 3, 2005

**SUMMARY AND RECOMMENDATION**

This ordinance authorizes the extension of the agreements with KPMG, L.L.P., Leal and Carter, P.C., and Robert J. Williams, CPA, effective October 1, 2005, to provide independent audit services to the City for Fiscal Year 2005 at a total fee of approximately \$543,895.00.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION**

The Charter of the City of San Antonio and Chapter 103 of the Texas Local Government Code require that an annual audit of the City's financial records and accounts be performed by independent certified public accountants. Additionally, independent audits are required by the Federal Single Audit Act and related OMB Circular A-133 and the State of Texas Single Audit Circular.

KPMG L.L.P. has been engaged as the City's lead audit firm since 1993. Leal and Carter, P.C., and Robert J. Williams, CPA, have been engaged on the audit team as co-auditors since 2001. On September 26, 2002, Ordinance Number 96458 was passed authorizing KPMG L.L.P., Leal and Carter, P.C., and Robert J. Williams, CPA, to provide audit services for the fiscal years 2002, 2003, and 2004, with the provision to extend for two one-year options. It is recommended that the City exercise the extension of a one-year option with the same firms and under the same terms and conditions approved in the original contract. This will cover the fiscal year 2005 audit.

It is recommended that KPMG L.L.P. serve as the Senior Audit firm with Leal and Carter, P.C., and Robert J. Williams, CPA, serve as Co-audit firms.

Participation levels for fiscal year 2002, 2003, 2004, and proposed 2005 are illustrated in the table below:

| <b>Auditor Firms</b>   |                            |                          |   |            |   |            |
|--|----------------------------|--------------------------|---|------------|---|------------|
| <b>Fiscal Year</b>   | <b>KPMG, L.L.P.</b>        |                          | <b>Leal &amp; Carter, P.C. <sup>(1)</sup></b> |            | <b>Robert J. Williams, CPA <sup>(1)</sup></b> |            |
|  | <b>%<br/>Participation</b> | <b>Fee</b>               | <b>%<br/>Participation</b>                    | <b>Fee</b> | <b>%<br/>Participation</b>                    | <b>Fee</b> |
| FY 2002  | 52%                        | \$163,950                | 38%   | \$119,810  | 10%   | \$31,528   |
| FY 2003  | 51%                        | \$160,798                | 39%   | \$122,962  | 10%   | \$31,528   |
| FY 2004  | 50%                        | \$165,370                | 40%   | \$132,296  | 10%   | \$33,074   |
| Proposed FY 2005 <sup>(2)</sup>  | 50%                        | \$287,128 <sup>(3)</sup> | 40%   | \$205,414  | 10%   | \$ 51,353  |
| <sup>(1)</sup> SBEDA Firms.  |                            |                          |   |            |   |            |
| <sup>(2)</sup> Increase in Fees in Proposed FY 2005 are consistent with the original contract and are due to the increase of 1,500 work hours to be absorbed by the external auditors that was previously provided by the City Auditor's Office. |                            |                          |   |            |   |            |
| <sup>(3)</sup> Includes an additional \$30,360 for KPMG Information Technology Auditors  |                            |                          |   |            |   |            |

Staff presented this recommendation to the Governance Committee on October 26, 2005, whereby the Governance Committee gave staff direction to proceed for Council action.

It is noted that the management of the audit contract will be at the discretion of the City Manager with additional input as to the makeup of the newly created Audit Committee, which is tentatively comprised of the Governance Committee, City Auditor, two representatives from the City Manager's Office, Finance Director, Budget Director, and City Controller.

### **POLICY ANALYSIS**

As required by the City Charter and Chapter 103 of the Texas Local Government Code, an annual audit of the City's financial records and accounts is to be performed by an independent certified public accountant. As the City receives financial assistance in the form of Federal and State grants, Single Audit reports are also required in compliance with Single Audit Act Amendments of 1996, the U.S. Office of Management and Budget Circular A -133 and the State of Texas Audit Circular.

### **FISCAL IMPACT**

Funding for this contract in the amount of \$543,895 was appropriated in the Fiscal Year 2006 budget process in the General Fund. \$500,000 was appropriated in Non-Departmental/Non-Operating and \$43,895 was appropriated in Special One-Time Projects.

### **SUPPLEMENTARY COMMENTS**

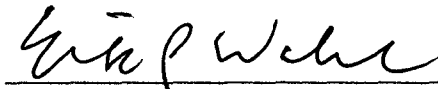
The discretionary contract forms are attached.

### **COORDINATION**

The City Attorney's Office, Office of Management and Budget, and the Finance Department coordinated with this proposed ordinance item.



Milo Nitschke  
Director of Finance



✠ Melissa Byrne Vossmer  
Assistant City Manager

# 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 entity<sup>1</sup> that is a party to the discretionary contract.

KPMG LLP.

(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).

- ☐ The partners in the KPMG San Antonio office are Rod Farrell, Walter Belt, Craig Collins, Anthony Berrett, Fred Bartz, Marcelo Mauri, Herschell Cavin and Eustis Corrigan.

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

- ☐ No 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

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

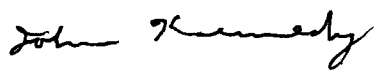
| By Whom Made:   | To Whom Made:    | Amount: | Date of Contribution: |
|-----------------|------------------|---------|-----------------------|
| Anthony Berrett | Carroll Schubert | \$1,000 | February 2005         |
| Rod Farrell     | Carroll Schubert | \$2,000 | February 2005         |
| Craig Collins   | Carroll Schubert | \$2,000 | February 2005         |
| Walter Belt     | Carroll Schubert | \$ 200  | February 2005         |

**(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 question<sup>2</sup> 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

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.

|  |                                    |                          |
|--|------------------------------------|--------------------------|
| <b>Signature:</b><br> | <b>Title:</b><br>Partner, KPMG LLP | <b>Date:</b><br>10/10/05 |
|--|------------------------------------|--------------------------|

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

## 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 entity that is a party to the discretionary contract:

Leal & Carter, P.C. , a Texas Professional Corporation

(2) Identify any individual or business entity that is a partner, parent or subsidiary of any individual or business entity identified above. If none, check the box below.

☐ No partner, parent or subsidiary; or

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

Officers/stockholders are Frank J. Leal -President/Treasurer and Roberto Carter - Vice-President/Secretary

(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:

<sup>1</sup> A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law. 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 more than \$500 made within the past twenty-four (24) months made to any person or person or member of City Council, any candidate for City Council, or to any political action committee for contributions 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 question 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:



Title:

Vice-President

Company or D/B/A:

Leal & Carter, P.C.

Date:

September 30, 2005

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

09/29/05 THU 17:26 FAX 210 207 4072

COSA FINANCE

## 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.

**Robert J. Williams CPA**  
1100 NW Loop 410 #700  
SAN ANTONIO TX 78213

☒ No partner, parent or subsidiary; or

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

☒ No subcontractor(s); or

List subcontractors:

☒ No lobbyist or public relations firm employed; or

List lobbyists or public relations firms:

<sup>1</sup> A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law. A sole proprietor should list the name of the individual and the d/b/a, if any.



09/29/05 THU 17:26 FAX 210 207 4072

**COSA FINANCE**

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12. **Political Contributions:** Has any individual contributor, during the 12 month period ending on the date of the filing of this statement, made to any member of Congress, member of the Council, any candidate of the Council, or to any political party, committee, or candidate in any Federal elections, by any individual or its resident, a total amount that must be disclosed under Box 12 (a) (1) or (2) above, or any other Federal, State, or local law? ☒ No contributions made; If contributions made, list below:

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

**10. Disclosures in Proposals**  
Any individual or business entity seeking a contract with the City shall disclose any known facts which reasonably understood may be a conflict of interest as defined by employee and/or public Section 2-43 of the City Code Ethics Code, conflicts of interest by participating in official action relating to the decisionary entity.

☒ 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:

|  |   |                             |
|--|---|-----------------------------|
| <p>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.</p> |   |                             |
| <p>Signature: <i>Robert Williams</i></p>   | <p>Title: <i>Principal</i></p> <p>Company or D/B/A: <i>Robert Williams &amp; Co</i></p> | <p>Date: <i>9/29/05</i></p> |

<sup>1</sup> For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.