

AN ORDINANCE 2013 - 09 - 05 - 0613

AUTHORIZING THE AMENDED AND RESTATED CONTRACT FOR IMPROVEMENTS AND/OR SERVICES IN THE SAN ANTONIO PUBLIC IMPROVEMENT DISTRICT WITH CENTRO PUBLIC IMPROVEMENT DISTRICT, A NON-PROFIT ENTITY, TO PROVIDE SPECIFIED SERVICES AND DEVELOP ANNUAL SERVICE AND ASSESSMENT PLANS FOR THE DOWNTOWN PUBLIC IMPROVEMENT DISTRICT FOR A TEN-YEAR PERIOD ENDING SEPTEMBER 30, 2023.

* * * * *

WHEREAS, pursuant to Ordinance Number 2013-05-30-0380, passed and approved on May 30, 2013, the City Council approved the re-establishment of the Downtown Public Improvement District (“PID”) through September 30, 2023 pursuant to the Public Improvement District Assessment Act, Local Government Code, Chapter 372; and

WHEREAS, the PID is a means through which property owners in the District can self-fund additional improvements and services to enhance the appearance and safety of the San Antonio downtown area; and

WHEREAS, although the special PID assessments will be collected by the City, Centro Public Improvement District (“Centro”), a Texas non-profit corporation, has again offered to assist the City by providing, furnishing or performing such improvements and services; and

WHEREAS, the property owners within the PID have proposed that the City accept the offer of Centro to continue to function as a contractor to provide, furnish, coordinate or perform such improvements and services to the PID area, either directly or through subcontractors; and

WHEREAS, Centro will supplement City services by providing a management program, a maintenance and landscaping program, a marketing program, a business recruitment and retention program and a public service representative program; and

WHEREAS, Centro will develop annual service and assessment plans to be approved by City Council; and

WHEREAS, it is now necessary to authorize the execution of the Amended and Restated Contract for Improvements and/or Services in the San Antonio Public Improvement District in the Downtown Area with Centro to provide services and/or improvements to the PID area for a period of ten (10) years to terminate on September 30, 2023, after which it may be extended for additional one-year terms upon agreement of both Centro and the City Council; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council of the City of San Antonio hereby authorizes the City Manager or her designee to execute the Amended and Restated Contract with Centro to provide specified services and to develop annual service and assessment plans for the Downtown Public Improvement District for a ten (10)-year period ending September 30, 2023, after which term the contract may be extended for additional one-year terms upon agreement by both parties. A copy and the Amended and Restated Contract, previously executed by Centro, is attached to this Ordinance as Attachment I.

SECTION 2. The PID shall pay the City \$50,000 annually to offset administrative costs incurred by the City during the course of its duties as set forth in the Amended and Restated contract and such funds shall be deposited in Fund 11001000, Internal Order 207000000213 and General Ledger 4407725.

SECTION 3. Special assessment revenues are authorized to be paid to Centro, a Texas non-project entity, for services rendered to the PID. The payments to Centro are after payment to the City for associated administrative costs.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon the receipt of eight affirmative votes; otherwise it shall be effective ten days after its passage.

PASSED AND APPROVED this 5th day of September, 2013.

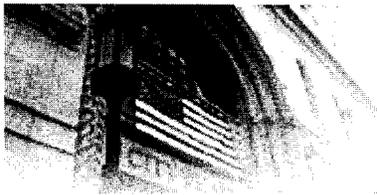

M A Y O R
Julián Castro

ATTEST:

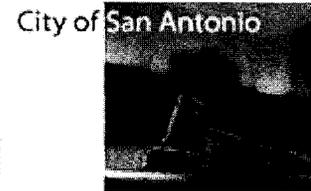

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION



Agenda Voting Results - 28B

Name:	5A, 5B, 8, 9, 10, 11, 12, 13, 14A, 14B, 14C, 15A, 15B, 15C, 15D, 15E, 15F, 15G, 16, 17, 18, 19, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20I, 20J, 20K, 21, 22, 23, 24, 25, 26A, 26B, 27A, 27B, 28A, 28B, 28C						
Date:	09/05/2013						
Time:	04:12:36 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing an Amended and Restated contract for Improvements and/or Services in the San Antonio Public Improvement District with Centro Public Improvement District, a non-profit entity, to provide specified services and develop annual service and assessment plans for the Downtown Public Improvement District for a ten-year period ending September 30, 2023.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				x
Ron Nirenberg	District 8		x				
Elisa Chan	District 9	x					
Carlton Soules	District 10		x				

Attachment I

**CONTRACT FOR IMPROVEMENTS
AND/OR SERVICES IN THE
SAN ANTONIO PUBLIC IMPROVEMENT DISTRICT
IN THE DOWNTOWN AREA**

STATE OF TEXAS §

COUNTY OF BEXAR §

WHEREAS, pursuant to the Public Improvement District Assessment Act, V.T.C.A, Local Government Code, Chapter 372, as amended (the “Act”) the governing body of a municipality is authorized to undertake improvements and/or services which confer a special benefit on a definable part of the city; and

WHEREAS, the City Council of the City of San Antonio, Texas (“City”), is authorized by the Act to levy and collect special assessments on real property in a public improvement district, based on the special benefits conferred by the improvements and/or services and to pay the cost of such improvements and/or services; and

WHEREAS, on May 30, 2013, the City adopted Ordinance No. 2013-05-30-0380, authorizing the reestablishment of the Public Improvement District in the Downtown Area (“PID”); specifying the general nature of the improvements in the PID which will include landscaping of public areas, maintenance activities, graffiti removal, sidewalk sweeping, power washing of sidewalks, uniformed public service representatives, marketing and promotion of Downtown, support business recruitment and retention efforts, participate in funding downtown capital improvements, and any other improvement or administrative cost authorized by the Act; estimating the cost of the improvements in the proposed PID will be \$3,300,000.00 annually or \$33,000,000.00 for the ten (10) year term of the PID; establishing the PID boundaries; specifying the method of assessment in the PID will be according to the value of real property and will be based on the appraised value of real property as determined by the current roll of the Bexar Appraisal District; and establishing that the City’s property included in the PID shall be subject to assessment, and otherwise, all costs of the PID’s activities will be paid by and apportioned to the PID and not to the City as a whole; and

WHEREAS, pursuant to Section 372.010 of the Act, an authorization takes effect when the ordinance authorizing the PID has been published one time in a newspaper of general circulation in the municipality; and

WHEREAS, the required public notices appeared in the Commercial Recorder on June 24, 2013; and

WHEREAS, as part of the City’s Downtown Strategic Plan, certain business and property owners desire to receive and underwrite the cost of supplemental services for the downtown area through the establishment of the PID; and

WHEREAS, for FY 2014, in addition to annual property taxes, property owners in the district will be required to pay an annual assessment rate of up to \$0.15 per \$100 valuation for commercial properties and up to \$0.09 per \$100 valuation for condominium residential properties which could raise in excess of \$3 million annually to fund a variety of supplemental services; and

WHEREAS, the City now desires to enter into a contract to provide for certain improvements and/or services in the PID, which improvements and/or services shall consist of a management program, a maintenance program, a landscaping program, a marketing program, a public service representatives program, a business recruitment and retention program, and a capital improvement program; and

WHEREAS, such improvements and/or services constitute a supplement to standard City services and an added increment of service to ensure the continued high quality of maintenance in the PID and to provide other special benefits and services which will enhance the vitality and quality of the Downtown area; and

WHEREAS, Centro Public Improvement District (formerly the Centro San Antonio Management Corporation), a Texas non-profit corporation, has offered to assist the City by providing, furnishing or performing the aforesaid improvements and/or services; and

WHEREAS, pursuant to the Act, a municipality is responsible for payment of assessments against exempt municipal property in the PID; and

WHEREAS, on September 5, 2013, the City adopted Ordinance No. 2013-09-05-____, which levied a Supplemental Special Assessment for Fiscal Year (FY) 2014 to fund services and improvements for the PID at a rate of \$0.15 per \$100 value of commercial real property and \$0.09 per \$100 valuation for condominium residential properties in the PID; and approved the FY 2014 Services and Assessment Plan for the PID to include an Annual Budget, a Five-Year Fiscal Forecast, the Supplemental Special Assessment rate, a maintenance and landscaping program, a marketing program, a public services representatives program, a business recruitment and retention program, and a capital improvement program ; and

WHEREAS, by that same ordinance, the City Council determined that for FY 2010, the annual net contribution of the City shall be \$247,218.00 and the annual net contribution from City Public Service Energy shall be \$,15,352 to satisfy assessments against exempt municipal property within the PID, which amounts are based on the estimated value of all municipal property within the PID; and

WHEREAS, also on September 5, 2014, the City Council of the City adopted Ordinance No. 2013-09-05-____, which authorized the negotiation and execution of a contract with Centro Public Improvement District to provide specified services and develop annual *Service and Assessment Plans* for the PID; and

WHEREAS, the City and Centro Public Improvement District mutually desire to enter a contract whereby, for the consideration stated below, Centro Public Improvement District

will provide, furnish or perform such improvements and/or services as further detailed in this Agreement;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That, for and in consideration of the mutual covenants, promises and agreements contained in this Agreement, the City, acting by and through the City Manager, and Centro Public Improvement District, a Texas non-profit corporation (the "Contractor"), acting by and through its duly authorized President, do covenant and agree as follows:

SECTION 1.

Engagement of Contractor

The City engages the Contractor, and the Contractor agrees to provide, furnish or perform the improvements and/or services to be provided in the PID as described in Section 2 of this contract.

SECTION 2.

Scope of Services Provided by Contractor

1. The Contractor shall annually submit to the City of San Antonio an updated *Service and Assessment Plan* (a "Plan") to outline the improvements and/or services to be provided, furnished and/or performed by the Contractor in the PID for the ensuing fiscal year. Fiscal years will end September 30, and Plans for the ensuing fiscal year shall be submitted by August 1st of each fiscal year. Once an updated Plan is provided to the City of San Antonio by the Contractor and a mutually accepted plan is approved by City Council by passage of an ordinance, the Contractor shall provide, furnish and/or perform all improvements and/or services called for in the Plan for the ensuing fiscal year. Plans will be placed on file in the City Clerk's Office, and shall be attached to this Agreement as Exhibit A and incorporated upon completion and approval by City Council. Each Plan shall address the degree of services to be provided by the Contractor in each of the following programs:

A. Management Program

To the extent provided in the approved Plan, the Contractor shall provide the following administrative and management services for operations of the PID:

1. Recruit, hire, pay and provide the staff, administrative services, management, supervisory services and work force necessary to furnish improvements and/or services in the PID.
2. Full-time employees shall be entitled to fringe benefits which shall include at a minimum a health plan for the employee and his/her dependents.
3. Contractor shall keep time sheets which accurately reflect the time worked by

each employee for each pay period. Contractor shall retain records of the time sheets for a period of four (4) years after the termination of this Agreement.

4. Provide the office space necessary to furnish services in the PID.
5. Provide financial and program monitoring systems for operation of the PID including:
 - a. Accurate, current and complete disclosure of financial results in accordance with the reporting requirements set forth in Section 26 of this Agreement (if accrual basis reports are required, the Contractor shall develop such accrual data for its reports on the basis of an analysis of the documentation on hand);
 - b. Records that adequately identify the source and application of funds for PID activities. These records shall contain information pertaining to awards, authorizations, obligations, unobligated balances, assets, equity, outlays, and income;
 - c. Effective control over and accountability for all funds, property, and other assets (the Contractor shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes);
 - d. Comparison of actual outlays with budget amounts from the approved financial plan/program budget (whenever appropriate or required by the City, financial information should be related to performance and unit cost data);
 - e. Procedures to minimize the time elapsing between the transfer of funds from the City and the disbursement of said funds by the Contractor;
 - f. Establishment and maintenance of an adequate system of accounting and internal controls, ensuring that an adequate system exists for each of its sub-contractors. An acceptable and adequate accounting system presents and classifies costs of operating PID in such a manner as to facilitate adequate budgetary and financial evaluation. The Contractor shall be responsible for an accounting system reflecting generally accepted accounting principles.
 - g. The accounting system of the Contractor must ensure that City assessed PID funds must be accounted for separately and not commingled with funds from other funding sources
 - h. Procedures for determining the reasonable and allowable costs in accordance with the provisions of this Agreement and any and all applicable cost principles under generally accepted principles of

accounting for non-profit corporations; and

- i. Accounting records that are supported by source documentation;
6. Unless otherwise requested by City, the Contractor shall coordinate with and provide quarterly reports to the City through its designated representative on operations, services provided, activities and conditions within the PID;
7. Provide the City through its designated representative an annual independently audited financial report complete with an auditor's opinion by December 31 for the preceding fiscal year;
8. Enter into all necessary contracts with, supervise and monitor the performance of subcontractors;
9. Serve as an information resource for businesses, services, activities and physical improvements within the PID; and
10. Provide recommended and updated annual Plans to the City's designated representative who will submit to the City Manager's Office plans which shall include detailed descriptions of the levels of services and/or improvements to be provided by the Contractor during the coming fiscal year for each of the programs listed in the Contractor's Scope of Services (Section 2 of this Agreement). A financial plan/program budget shall also be included in each Plan.
11. Financial plans/program budgets will show expenditures in balance with income. The financial plan/program budget must be for the full fiscal year and reflect anticipated program activity throughout the life of agreement. If the Contractor operates for only a portion of the year, the financial plan/program budget must reflect the period of inactivity.
12. The Contractor must notify the City of any and all changes in board membership, officers, and policy in the next Plan. The Contractor must provide the City representative an accurate schedule as to time and place of regularly scheduled board meetings. Excepting consultation concerning attorney-client matters (real estate, litigation, contracts, personnel and security), all board meetings in which the board is acting as an advisory body as provided for in Section 372.008 of the Act shall be open to the public. In such cases, the City must be notified of the board meetings at least 72 hours in advance of said meeting. Minutes of these board meetings will become part of the Contractor's program record, and as such, must be kept current and are subject to review by the designated City representative.

B. Maintenance and Landscaping Program

1. To the extent provided in the approved Plan, the Contractor shall provide the following maintenance services in the PID, either directly or through a

subcontractor:

- a. Sidewalk sweeping, litter removal and sidewalk washing as required to maintain an attractive pedestrian environment within the PID, coordinated with and supplementing the City's maintenance services;
 - b. In addition to and in coordination with the City's regular tipping of trash receptacles located on public property and in public rights-of-way within the PID, tip trash receptacles as required to maintain adequate remaining capacity; and
 - c. Clean street furniture and remove graffiti and other defacements from public areas in the PID (including benches, drinking fountains, fountains, public art, street planters and other public landscaping improvements, trash receptacles, pedestrian lighting, PID signage, public telephones and telephone booths, kiosks, and other related improvements in public areas) as provided in the Plan and coordinated with the City's cleaning and graffiti removal schedules.
 - d. At all times maintain vehicles, including if applicable those referenced in Exhibit C, which is more clearly described in Sections 3D and 9 of this Agreement, and all other equipment and service facilities used in the performance of this Agreement in a first-class operable state of repair including mechanical and safety inspections. Vehicles shall not be operated unless they are in such condition, and are free from defect or damage to interior, exterior, equipment, mechanisms or structure. Contractor shall maintain all necessary motor vehicles, materials and other items, including spare parts, requisite to the continued and consistent performance of this Agreement in accordance with its obligations and in the manner contemplated by this Agreement.
2. To the extent provided in the approved Plan, the Contractor shall provide the following landscaping services in the PID, either directly or through a subcontractor:
- a. Care for and maintain all landscaping (including planters) funded, added, and/or installed by the Contractor, its agents, servants, employees or subcontractors within the PID, including: watering, fertilizing, pruning, plant replacement, treatment of wounds, disease control, and insect control.
 - b. The Contractor shall not be responsible for the maintenance and repair of plumbing and electrical equipment except for electrical equipment pertaining to tree lighting or other decorative PID improvements.
 - c. The Contractor shall report all plumbing problems to the designated City representative who shall report the same to the appropriate City department for timely correction.

- d. The Contractor shall reimburse the City or pay directly for any repairs resulting from negligence or abuse of City electrical or plumbing facilities by the Contractor, its agents, servants, employees or subcontractors.
 - e. The Contractor shall advise the designated City representative in a timely manner of recognized needs for capital improvements, replacements, repairs and/or relocations of City-owned property in the PID (including street furniture and landscaping).
3. The Contractor shall provide 2 sidewalk power washing crews in addition to such services included in the Plan. The crews shall operate Sunday-Thursday from 9:00 a.m.-5:30 p.m.. The invoices for such additional power washing services shall be separate from those for services furnished under the Plan, shall not be paid with PID funds and are subject to annual budgetary appropriation by City Council.

C. Marketing Program

To the extent provided in the approved Plan, the Contractor shall provide a marketing program that shall include the following services:

1. A public relations/public service campaign to describe the PID; the services being provided; and activities, attractions, and events occurring within and surrounding the PID;
2. Seek a wide variety of media exposure for the PID and surrounding areas; and
3. Serve as a communication resource for information about the PID.

D. Public Service Representatives Program

To the extent provided in the approved Plan, the Contractor shall provide for a Public Service Representatives Program in the PID in the following ways:

1. Uniformed individuals, trained and knowledgeable about businesses and services located in and surrounding the PID, equipped with communication devices and circulating throughout the PID; and
2. The public service representatives shall work in close coordination with various public and private law enforcement individuals and agencies within the PID, but they shall not be or function as deputized law enforcement officers.

E. Business Recruitment and Retention Program

To the extent provided in the approved Plan, the Contractor shall provide for a Business Recruitment and Retention Program in the PID in the following ways:

1. Develop and implement a business retention and recruitment plan and campaign detailing the existing businesses located within the District and opportunities for new business locations within the District;
2. Provide funding for the hire of an individual or consultant services to administer implementation of the program.

F. Capital Projects Program

To the extent provided in the approved Plan, the Contractor shall provide for a Capital Projects Program in the PID in the following ways:

1. Provide funding or partial funding for capital projects with the District including but not limited to: addition of furniture, signage, lighting, painting, façade improvements and other improvements within or adjacent to the public right-of-way within the District;
2. Provide funding for the hire of an individual or consultant services to administer implementation of the program.

G. Program Budget Adjustments

The Contractor shall have the authority to transfer program budgets within a particular program or to other programs so long as the total amount transferred does not to exceed 10% of each annual program budget. Additionally, the Contractor shall have the authority to transfer program budgets in excess of 10% within a particular program or to other programs so long as the total amount transferred does not to exceed 25% of each annual program budget and such transfers shall require the prior written approval of the City Manager or her designee and will not be allowed if they reduce the budgets of the Maintenance and Landscaping Program, provided under Section 2(B), or the Public Service Representatives Program, provided under Section 2(D) in excess of 10%. The total expenditure of funds by the Contractor to conduct PID activities must not exceed the total amount authorized by the City in the approved Plan. The Contractor shall immediately request approval from the designated City representative when there is reason to believe that a revision to the financial plan/program budget will be necessary for the following reasons:

- a. Changes are requested in the scope or the objective of projects, programs, services and/or improvements to be made according to the approved Service and Assessment Plan.

To obtain City approval, the Contractor must submit a written request stating the proposed changes and justification to the designated City representative. The City may, at its option, restrict revisions to the financial plan/program budget, and under no circumstances will revisions to the plan/budget be allowed if such revision, or any part thereof, causes PID funds to be used for purposes other than those intended by this Agreement and City Ordinance No. 2013-09-05-____.

H. Other Service and/or Improvement Programs

To the extent provided in the approved Plan, the Contractor shall provide additional services and/or programs other than those described above. In addition to Section 2(G), the Contractor may utilize an amount not to exceed 10% of the total annual budget as an Unallocated Contingency Fund. These funds shall be used within the PID, at the Contractor's discretion with the approval of the designated City representative for services and/or improvements under the Maintenance and Landscaping Program, Marketing Program, Public Service Representatives Program, Business Recruitment and Retention Program or Capital Projects Program.

I. Execution of Services and/or Improvements by Contractor

The Contractor shall commence, carry on and provide such improvements and/or services with all practicable dispatch, in a sound, economical and efficient manner, in accordance with this Agreement and its attachments and all applicable laws. In providing such improvements and/or services, the Contractor shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being performed by the City or other agencies which may use the public right of way.

Personnel employed by the Contractor or its subcontractors shall not be considered employees of or under any contractual relationship with the City. Unless otherwise specifically provided herein, all of the improvements and/or services required herein will be performed by the Contractor or its subcontractors, and all personnel engaged by the Contractor shall be fully qualified to perform such improvements and/or services.

SECTION 3.

The City's Duties and Responsibilities

- A. The City shall provide the following services in connection with operations of the PID and with the performance of this Agreement:
1. Annually determine the Supplemental Special Assessment for each Fiscal Year (FY), levy the assessment rate based on the value of real property in the PID; approve the Services and Assessment Plan for the PID, collect the assessments and record the same in a separate fund;
 2. Make payments to the Contractor from assessment revenues, limited to funds currently available from assessment collections;
 3. Maintain the existing level of services that the City currently provides in the PID (as set out in the Existing Downtown Maintenance, Horticultural and Landscaping document as of September 30, 2013 – Exhibit B), either directly or by payment(s) in lieu thereof (however, service reductions are permitted without penalty in conjunction with Citywide service reductions);

4. Maintain complete and detailed records concerning any expenditure of special assessment revenues that are made through City departments, boards or agencies;
 5. Promulgate rules and regulations pertaining to the use of the public space in the PID;
 6. Make quarterly reports to the Contractor concerning assessment collections, delinquent assessments, liens and make billings thereon as necessary;
 7. Produce an annual assessment roll of property owners and property within the PID;
 8. Respond to inquiries and requests from the Contractor in a timely fashion; and
 9. Pay the annual assessments on municipal property in the PID satisfied through an annual net City contribution and an annual net City Public Service contribution that is determined by the rate levied by the City Council for each fiscal year, beginning in Fiscal Year 2014 and ending upon termination of this Agreement. The City determines its contribution based on the insured value of City property and increases at a rate of 2% a year. For FY 2014, the City contribution shall be \$247,218.00, and the City Public Service contribution shall be \$15,352.00.
- B. The City shall have no financial obligation to the PID other than levying and collecting the assessments levied by the PID, except as provided in Section 3A above and paying for improvements and/or services that the Contractor performs in the PID in accordance with the approved Plan, subject, however, to the provisions of Sections 6 and 7 hereof. Payments shall be limited to funds available from assessment collections and contributions in payment of assessments against tax-exempt municipal property.
- C. In the event a PID fund balance remains after dissolution, after payment of all expenses, and after payment of all liabilities, City shall consult with the District to determine how to utilize any such balance for incremental services and/or improvements eligible under the Act within the boundaries of this PID.
- D. In the event City-owned equipment or vehicles are to be used by Contractor, the City will allow the contractor to utilize those certain Cityowned vehicles and/or that certain City-owned equipment covered by Section 9 "Right of Ownership" that are to be identified by Contractor with specificity in Exhibit C to this Agreement, within the limits of ~~in~~ the District for delivery of Contractor services as provided for in this Agreement. Exhibit C shall be supplemented from time to time during the term of this Agreement by written Supplement initialed on behalf of the Parties and submitted to the Office of the City Clerk by City staff for attachment to this Agreement, to reflect each addition and/or deletion of City owned vehicles and/or equipment.

- E. If Exhibit C is submitted by Contractor, City, by its officers, employees, agents, representatives and contractors, shall have the right at any and all reasonable times to inspect the vehicles, equipment and service facilities used by Contractor pursuant to this Agreement to verify performance by Contractor of its obligations under this Agreement. Should Contractor be found to have neglected and/or failed to properly maintain said vehicles, equipment and service facilities, City may demand that Contractor follow through with repair and maintenance obligations. If Contractor refuses or neglects to commence within ten (10) business days after City's demand and complete the same within thirty (30) business days after City's demand, except for emergencies, then City may, but is not obligated to, make and cause such repairs or maintenance to be made after, which Contractor agrees that it will forthwith, on demand, pay to City the costs thereof and if Contractor defaults on such payment, City shall be able to deduct said costs from funds transferred in the next fiscal year.

SECTION 4.

Amendments to Contract

This contract shall not be considered to be modified, altered, changed or amended in any respect unless the same is done in writing and is signed by both parties and approved by City Council as authorized by passage of an ordinance.

SECTION 5.

Term

The initial term of this contract shall begin on October 1, 2013. This contract shall terminate September 30, 2023 and may be extended for additional one-year terms beyond the initial term upon mutual agreement of both parties. Any extensions shall be authorized by the San Antonio City Council, evidenced by a duly authorized ordinance, on an annual basis. In the event the Downtown PID is terminated prior to the end of this contract, this contract shall automatically terminate without any action by either party. The compensation for contract extensions may be adjusted in accordance with the annual Service and Assessment Plan approved by City Council.

SECTION 6.

Payments to Contractor

- A. After October 1, 2013 the City shall reimburse the Contractor on a monthly basis for performance of the work as hereinafter provided. On the last working day of each month the Contractor shall send the City an invoice detailing the improvements and/or service performed during that period. Upon arrival of such notice, the City shall, within ten (10) working days reimburse the Contractor from available funds for eligible expenses adjusted for accrued interest earned on the advance.

The City may require the submission of original or certified copies of invoices and/or cancelled checks to verify invoiced expenses. Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, the Contractor will refund such amount to the City. The City has the authority to deduct such claims from subsequent reimbursements.

- B. The Contractor shall make a quarterly work report to the designated City representative. This quarterly report shall detail all of the Contractor's significant work activities during the preceding quarter. The format of the report shall be in a form that is mutually agreed upon by the Contractor and the City Manager. The report shall be due on the fifteenth working day of the month after the end of the quarter. Payments to the Contractor may be withheld if the quarterly report is not received. The City's designated representative shall have the right to verify that the report is complete and accurate.
- C. In the case of any improvements and/or services that the Contractor does not provide throughout the term of the contract, the Contractor shall receive payments to cover only the periods when such improvements and/or services were actually provided.
- D. All funds received by the Contractor under this Contract will be used in the management and operation of the PID. Any funds received from the City by the Contractor, even if held after the term of this Contract, shall be used by the Contractor to manage the PID, or make improvements in or provide services in the PID, in accordance with the approved Plan. Acceptance by the City of requests for reimbursements that are not in compliance with contract provisions shall not be construed to be a waiver of the City's right to demand that future requests meet contract requirements.
- E. Contractor shall obtain a fidelity bond covering all persons handling funds received or disbursed hereunder and/or signing or co-signing checks for said fund disbursement. Prior to the receipt of funds, the Contractor shall obtain a Fidelity Bond in an amount of not less than the maximum total of the Contractor's expected combined request for reimbursements submitted to the City for any given fiscal year, and evidence of same shall be filed with the City Clerk (copy to City's designated representative) prior to any disbursement of funds hereunder but no later than ten (10) working days prior to operations under this Agreement. Contractor shall ensure that such bond shall contain a provision that cancellation or expiration notice be sent to City at least sixty (60) days prior to the effective date of such cancellation or expiration. All costs shall be paid by said Contractor although such bonding costs are a proper charge against the budget of the Contract.
- F. The costs associated with budgeted travel for business, either in-town or out-of-town, are allowable costs provided documentation of expenses is present
 - 1. Employees, to be eligible for car allowance, are required to possess a valid

Texas Driver's License and liability insurance as required by law. Participation by the employees in an approved defensive driving course is strongly encouraged. Evidence of the required driver's license and liability insurance must be kept on file with the agency.

2. Employees eligible for car allowance are required to record on a daily basis, odometer readings before and after business use, showing total business miles driven each day. Mileage records are subject to spot-checks by City auditors and monitors and must be kept in the vehicle.
 3. Costs associated with out-of-town travel must be no more liberal than the City of San Antonio's travel policies. The purpose of the trip along with complete documentation of expenses and copies of all receipts are required to be maintained in the Contractor's files.
- G. In those cases where the Contractor receives funds for this specific program from sources other than the City, there may be administrative-standards and/or practices that are different from those required by the City. The accounting system of the Contractor must ensure that City assessed PID funds are not commingled with funds from other funding sources. City assessed PID funds must be accounted for separately.

SECTION 7.

Availability of Funds

If the City revenues referred to in Section 6 above are not available or are insufficient for the City to make the payments due hereunder, the City's designated representative will immediately notify the Contractor of such occurrence, and the Contractor's duty's under this Agreement shall be suspended until funds are available from special assessments or previously appropriated City funds. In the alternative when sufficient funds are not available, the City and the Contractor may meet and negotiate an amendment to this contract and the Plan so that the scope of improvements and/or services to be provided by the Contractor will correspond to the amount of available funds.

SECTION 8.

Public Convenience and Safety

- A. The Contractor shall observe City ordinances relating to obstructing streets, keeping alleys or other rights-of-way open and protecting same and shall obey all laws and City ordinances controlling or limiting those engaged in the work and shall coordinate with the respective City departments concerning the same.
- B. The Contractor shall perform its duties in a manner that will cause the least inconvenience and annoyance to the general public and property owners.

SECTION 9.

Right of Ownership

All permanent public facilities and equipment owned by the City within and/or for the benefit of the PID including but not limited to vehicles shall remain the property of the City, therefore, Contractor cannot dispose of such property without the express written consent of the City. Upon termination of the Contractor's services under this contract (including if the Contractor's services are not renewed), the City reserves the right to have full and complete legal and equitable ownership of any, some, or all improvements, facilities, and equipment funded (including funds provided through the City), added, and/or installed by the Contractor, its agents, servants, employees or subcontractors within the boundaries of and in connection with the PID (including benches, drinking fountains, fountains, public art, street planters and other landscaping improvements, pedestrian lighting, PID signage and banners, public telephones and telephone booths, kiosks, and/or other related improvements in public areas, and/or vehicles and other items of personal property) transferred to the City by the Contractor at no cost to the City. Additionally, upon termination of the Contractor's services the Contractor shall, as an expense of the PID, remove any such improvements on public property funded, added, and/or installed by the Contractor, its agents, servants, employees or subcontractors within the boundaries of and in connection with the PID that the City chooses not to retain.

SECTION 10.

Discrimination by Contractor

The Contractor, in the execution, performance, or attempted performance of this contract, shall not willfully discriminate against any person or persons because of sex, race, religion, color or national origin, nor will the Contractor knowingly permit its officers, agents, employees or subcontractors to engage in such discrimination.

SECTION 11.

Contractor Liability

The Contractor shall assume full liability for any damages to any person or any public or private property that is due to the negligence of the Contractor, its subcontractors, agents, permittees or assigns.

SECTION 12.

Personal Liability of Public Officials

No employee of the City, or any other agent of the City shall be personally responsible for any liability arising under or growing out of this contract or operations of the Contractor under the terms of this contract.

SECTION 13.

City Not Liable for Delay

It is further expressly agreed that in no event shall either party to this Agreement be liable or responsible to the other or any other person for or on account of any stoppage or delay in the work herein provided for by injunction or other legal or equitable proceedings, or from or by or on account of any delay for any cause over which such party has no control.

SECTION 14.

Indemnification

THE CONTRACTOR covenants and agrees to INDEMNIFY, DEFEND and HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS AND EMPLOYEES against any and all claims, lawsuits, judgments, cost, liens, losses, expenses, fees (including attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury (including death), property damage, or other harm for which recovery of damages is sought that may ARISE OUT OF OR BE OCCASIONED OR CAUSED BY THE NEGLIGENT ACT, ERROR, OR OMISSION OF THE CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR OF THE CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES. THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF THE CITY, ITS ELECTED OFFICIALS, OFFICERS OR EMPLOYEES. IN THE EVENT THE CONTRACTOR AND THE 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 LAW.

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.

The CONTRACTOR shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or the CONTRACTOR known to the CONTRACTOR related to or arising out of the CONTRACTOR's activities under this AGREEMENT.

Defense Counsel – The City shall have the right to select or to approve defense counsel to be retained by the Contractor in fulfilling its obligation hereunder to defend and indemnify the City, unless such right is expressly waived by the City in writing. The

Contractor shall retain City-approved defense counsel within seven (7) business days of the City's written notice that CITY is invoking its right to indemnification under this Agreement. If the Contractor fails to retain counsel within such time period, the City shall have the right to retain defense counsel on its own behalf, and the Contractor shall be liable for all costs incurred by the City. The City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

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

SECTION 15.

Insurance

Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Downtown Operations Department, which shall be clearly labeled "CONTRACT FOR IMPROVEMENTS AND/OR SERVICES IN THE SAN ANTONIO PUBLIC IMPROVEMENT DISTRICT IN THE DOWNTOWN AREA" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. 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, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Downtown Operations Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

The City reserves the right to review the insurance requirements of this section during the effective period of the Contract and any extension or renewal hereof. When deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Contract, City shall consult with Contractor to develop mutually agreed upon coverages and limits.

A Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do

business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNT</u>
A. Workers' Compensation Employers' Liability	Statutory \$500,000/\$500,000/\$500,000
B. Broad Form Commercial General Liability Insurance to include coverage for the following:	
a. Premises/Operations	For <u>Bodily Injury</u> and
b. Independent contractors	<u>Property Damage</u> of
c. Products/completed operations	\$1,000,000 per occurrence,
d. Personal Injury	\$2,000,000 in General Aggregate; or
e. Contractual Liability	its equivalent in Umbrella or Excess Liability Coverage
C. Business Automobile Liability	
a. Owned/leased vehicles	<u>Combined Single</u>
b. Non-owned vehicles	<u>Limit (CSL)</u>
c. Hired vehicles	of \$1,000,000

The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes. All notices under this Article shall be given to City at the following address:

City of San Antonio
Attn: Downtown Operations Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as an additional insured by endorsement, 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.
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor’s performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies City may have upon Contractor’s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due, to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

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

It is agreed that Contractor’s insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

Contractor and any Subcontractors are responsible for all damage to their own equipment and/or property.

SECTION 16.

Laws to be Observed

The Contractor at all times shall observe and comply with all federal and state laws, local laws, ordinances, orders and regulations of the federal, state, county or City governments. The federal, state and local laws, ordinances and regulations which affect those engaged or employed in the work or equipment used in the work, or which in any way affects the

conduct of the work, shall be observed, and no pleas of misunderstanding will be considered on account of ignorance thereof.

SECTION 17.

Taxes

The Contractor shall pay all federal, state and local taxes that may be chargeable against the performance of this work.

SECTION 18.

Permits

Before proceeding with the work hereunder, the Contractor shall obtain and pay for any necessary permits and licenses, whether issued by the state, county or City and furnish proof thereof.

SECTION 19.

Character of Workers and Work

The Contractor and the Contractor's employees, including subcontractors, shall be competent and careful workers skilled in their respective trades. The Contractor shall not knowingly employ nor contract with any person who repeatedly engages in misconduct or is incompetent or negligent in the due and proper performance of his or her duties. The City shall have the right to require the Contractor to remove any employee who (as determined by a court) displays misconduct toward the public or public property, or is in any way discourteous to the public.

SECTION 20.

Bidding

Contractor agrees to abide by the following bidding procedures as set forth below:

No bids or City approvals are required for equipment purchases and leases totaling less than \$3,000.00 annually. Three informal bids (if available) and no City approval will be required for equipment purchases and leases totaling \$3,000.00 - \$50,000.00 annually. Three formal bids (if available) and City approval are required for equipment purchases and leases totaling more than \$50,000.00 annually.

No proposals or City approval is required for professional services totaling less than \$3,000.00 annually. Three informal proposals (if available) and no City approvals will be required for professional services totaling \$3,000.00 - \$50,000.00 annually. Three formal proposals (if available) and City approval is required for professional services totaling more than \$50,000 annually.

SECTION 21.

Equipment

The Contractor shall at all times maintain its equipment in a clean, serviceable condition. All equipment shall be properly licensed and inspected and clearly marked with the Contractor's name.

The City retains ownership of all equipment/property purchased with funds received through the City and shall, at the City's option, revert to the City at the termination. Should the City decline the option of reversion, then such equipment and/or property shall be sold by the Contractor and such PID funds shall be used in accordance with Section 3(C) of this Agreement. It is understood that the term "equipment", as used herein, shall include not only furniture and other non-expendable, durable property, but also vehicles.

- A. No equipment, purchased with funds from assessments with a Fair Market Value in excess of \$2,500 may be disposed of without prior written approval from the City. In cases of theft and/or loss of equipment, it is the responsibility of the Contractor to replace such equipment to the extent such equipment is covered by insurance. City funds cannot be used to replace equipment in those instances.
- B. Equipment that has reverted to the Contractor through a City-paid lease agreement with option to buy will be considered the same as though the equipment was purchased outright with City funds.
- C. The Contractor is fully and solely responsible for the safeguarding, maintaining, and reporting of lost, stolen, missing, damaged or destroyed equipment/property purchased or leased with City/PID funds. All lost, stolen, missing, damaged and/or destroyed equipment/property shall be reported to the local Police Department and, if applicable, the Federal Bureau of Investigation (FBI). The Contractor shall make such reports immediately and shall notify and deliver a copy of the official report to the City, including:
 - 1. A reasonably complete description of the missing, damaged or destroyed article of property, including the cost and serial number and other pertinent information;
 - 2. A reasonably complete description of the circumstances surrounding the loss, theft, damage or destruction; and
 - 3. A copy of the official written Police report or, should the Police not make such copy available, a summary of the report made to the Police, including the date the report was made and the name and badge number of the Police Officer who took the report.

SECTION 22.

Assigning or Subletting this Contract

The Contractor shall not assign this contract or any portion of this contract without written approval of the City Manager's Office. The City's written approval of the Contractor assigning this Contract shall not be considered as making the City a party to such assignment or subjecting the City to liability of any kind to any contractor. No subcontract shall under any circumstance relieve the Contractor of the Contractor's liability and obligations under this contract; all transactions will be made through the Contractor. Such subcontractors will be recognized and dealt with only as workers and representatives who are providing services to the Contractor. Any subcontractors shall be subject to the provisions of Section 11 hereof.

SECTION 23.

Breach of Contract

All terms, conditions and specifications of this Agreement shall be considered material, and failure to perform any part of the contract shall be considered a breach of contract. Should a party in default fail to remedy any breach of contract within fourteen days after written notification to the other party of the violation, the non defaulting party may, at its option and in addition to any other remedies available to it under law, terminate the contract. This contract shall not be terminated, however, if the defaulting party has commenced to cure the breach within said fourteen day period, and thereafter pursues such cure with reasonable diligence and in good faith.

SECTION 24.

Contract Administration

The City assigns to the Contractor the responsibility to perform the administrative, supervisory and management tasks for the PID as set forth in this contract and the Plan which is on file in the City Clerk's Office of the City of San Antonio. Administration by the City of this Agreement involves many departments. Tasks have been assigned to the organizational units within the City structure that are best equipped to administer specific tasks and eliminate duplication of effort. The City Manager's Office will provide the Contractor written notice of representative(s) designation. Should any question arise with regard to the responsible department, such inquiry should be made to the Downtown Operations Department. The various tasks are assigned as follows:

- A. BUDGETING – DOWNTOWN OPERATIONS DEPARTMENT;
BUDGET AND MANAGEMENT ANALYSIS AND CITY
MANAGER'S DESIGNEE;
- B. CONTRACT NEGOTIATION AND EXECUTION – CITY
MANAGER'S DESIGNEE;
- C. PROGRAM MONITORING - CITY MANAGER'S DESIGNEE;

- D. FISCAL MONITORING - CITY MANAGER'S DESIGNEE;
- E. ACCOUNTING AND ASSESSMENT STATEMENTS - FINANCE DEPARTMENT;
- F. AUDIT - CITY AUDITOR'S OFFICE;
- G. EQUAL EMPLOYMENT OPPORTUNITY - HUMAN RESOURCES;
- H. REPROGRAMMING OF FUNDS BETWEEN AGENCIES - BUDGET AND MANAGEMENT ANALYSIS AND CITY MANAGER'S DESIGNEE;
- I. PROGRAM AND FISCAL EVALUATION - CITY MANAGER'S DESIGNEE;
- J. PLANNING - CITY MANAGER'S DESIGNEE;
- K. AGENCY BOARD MONITORING - CITY MANAGER'S DESIGNEE;
- L. INSURANCE – RISK MANAGEMENT DIVISION;
- M. FILED DOCUMENTS – CITY CLERK'S OFFICE; AND
- N. ANY OTHER TASKS – CITY MANAGER'S DESIGNEE.

SECTION 25.

Information

The Contractor shall, at such time and in such form as the City may require, furnish periodic information concerning the status of the project and such other statements, certificates and approvals relative to the project as may be requested by the City through its designated representative.

SECTION 26.

Books and Records

The Contractor shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be maintained on a generally-accepted accounting basis and shall be clearly identified and readily accessible. The Contractor shall provide representatives of the City or its appointees free access to such books and records, at all proper times, in order that they may examine and audit the same and make copies thereof. The Contractor shall further allow the City and its representatives to make inspections of all work data, documents, proceedings and

activities related to this contract. Such right of access and audit shall continue for a period of three (3) years from the date of final payment under this contract.

A. Approval of Accounting System

The Contractor shall establish and maintain a financial system which provides for adequate control of Contract funds and other assets; ensure the accuracy of financial data; and provide for operational efficiency and for internal controls to avoid conflicts of interest and to prevent irregular transactions or activities.

Initially, the City's Office of Internal Review (Internal Audit) will review and approve all Contractor's system of internal accounting and administrative controls prior to the release of funds hereunder. Thereafter, Internal Review will schedule a review at least every three years. No funds will be disbursed to the Contractor by the City until the Office of Internal Review has determined the system to be adequate including any necessary corrective action which might be necessary.

B. Reporting Requirements

The Contractor must comply with any and all applicable Federal, State and/or Local reporting requirements. Additionally, cost summaries should be maintained by the Contractor to reflect accrued costs on a monthly basis and may be required to be submitted to the City. The Responsible Department may provide to the Contractor, summary statements based upon City records of expenditures and reimbursements to date, and the Contractor should reconcile these summary statements to their trial balances and general ledger. Special reports, as required or deemed necessary by the responsible department, are to be submitted as needed.

C. Cash Management

The Contractor must deposit PID funds in a bank insured with the Federal Deposit Insurance Corporation (FDIC). In those situations where PID funds deposited exceed the FDIC insurance limit, the Contractor must arrange with its bank to automatically have the excess collaterally secured. The Contractor will maintain on file a written copy of the collateral agreement from its banking institution for monitoring reviews and audits.

D. Checks and Check Procedures

The Contractor shall establish adequate internal accounting and administrative controls to properly safeguard the preparation of checks and unused checks. The system of internal accounting and administrative controls must include the following controls:

1. All checks issued in an amount greater than \$1,000.00 on PID funds must have the original signatures of two (2) duly authorized and responsible officials;
2. No blank checks are to be signed in advance;

3. No checks are to be made payable to cash or bearer with the exception of those for petty cash reimbursement, not to exceed a \$50.00 maximum;
4. Unclaimed salary or wage checks must be immediately returned to the PID. Contractor must keep records of all returned checks and such amount shall be reduced in the following monthly reimbursement.

E. Equipment Records

Records shall be maintained on all non-expendable items obtained with PID funds and will include:

1. A description of the equipment, including the model and serial number, if applicable;
2. The date of acquisition, cost and procurement source, purchase order number, and vendor number;
3. An indication of whether the equipment is new or used;
4. The vendor's name (or transferred from);
5. The location of the property;
6. The property number shown on the property tag; and,
7. A list of disposed items and disposition.

Non-expendable equipment must be properly identified as furniture or equipment and listed in the asset section of the GENERAL LEDGER cumulative from the date of purchase. An annual inventory of all equipment/property purchased or acquired under this Agreement is required to be completed and submitted by the Contractor as part of the annual financial plan/program budget. The City may perform an on-site verification of the inventory to determine the item's existence, condition, location and disposition instructions if applicable.

SECTION 27.

Performance Audit

The City shall have the right to conduct a performance audit and evaluation of Contractor at such times as the City deems necessary. The Contractor shall fully cooperate with any such performance audit. The City may employ consultants at the City's expense to assist the City in audits. The Contractor agrees to give the City and its consultants access to all reports, data, schedules, etc., which may be required to conduct said performance audit.

- A. The City reserves the right to dispatch auditors of its choosing to any site where any phase of the programs is being conducted, controlled or advanced in any way.

Such sites may include the home office, any branch office or other locals of the Contractor such as sites or the activities performed therein have any relation to the program covered by this Contract.

- B.** When an audit or examination determines that the Contractor has expended funds which are questioned by the City, the Contractor shall be notified and given an opportunity to address the questioned costs.
- C.** The City shall exercise its right to collect the debt through one of the two methods listed below:
 - 1. CITY shall notify Contractor of any disallowed expenses. The City may, at its option, demand repayment in cash from the Contractor of all disallowed costs from funds other than those given under this Contract. Cash settlement will be the normal method of repayment to the City.
 - 2. Should Contractor continue to use assessment funds for ineligible expenses the City may, at its option, withhold any or all of its payments to the Contractor hereunder and draw back unexpended funds to collect the debt.
- D.** All expenses associated with the collection of delinquent debts will be the sole responsibility of the Contractor and shall not be paid from any program funds received by the Contractor under this Contract.
- E.** The City shall have the authority to make physical inspections and to require such physical safeguarding devices as locks, alarms, safes, fire extinguishers, sprinkler systems, etc. to safeguard property and/or equipment authorized by this Contract.

SECTION 28.

Notices

Any notice, bill, invoice or report required by this contract shall be conclusively determined to have been delivered at the time same is deposited in the United States mail, in a sealed envelope with sufficient postage attached, to the appropriate addresses listed below:

City of San Antonio
Downtown Operations Department
PO Box 839966
San Antonio, TX 78283-3966

Centro Public Improvement District
ATTN: President
110 Broadway, Suite 230
San Antonio, TX 78205-1906

SECTION 29.

Headings Disregarded

The titles of the several sections, subsections and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in constructing or interpreting any of the provisions of this contract.

SECTION 30.

Venue, Jurisdiction, and Legal Expenses

Should any action, whether real or asserted, at law or in equity, arise out of the execution of this contract, venue for said action shall lie in Bexar County, Texas. This contract and any action in connection herewith shall be governed, constructed and enforced by the laws of the State of Texas.

Under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other public entity. During the term of this Agreement, if Contractor files and/or pursues an adversarial proceeding against the City then, at the City's option, this Agreement and all access to the funding provided for hereunder may terminate if Contractor is in violation of this paragraph.

Contractor, at the City's option, could be ineligible for consideration to receive any future funding while any adversarial proceeding against the City remains unresolved. For purpose of this Article, "adversarial proceedings" include any cause of action filed by the Contractor in a state or federal court, as well as any state or federal administrative hearing, but does not include Alternative Dispute Resolution proceedings.

SECTION 31.

Severability

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

SECTION 32.

Non-waiver

The failure of any party to insist upon the performance of any term or provision of this contract or to exercise any right herein conferred shall not be constructed as a waiver or relinquishment to any extent of the party's rights to assert or rely upon any such term or rights on any future occasion.

SECTION 33.

Entirety of Agreement

This written instrument and all attachments incorporated herein by reference constitute the entire agreement by the parties hereto concerning the work and services to be performed hereunder, and any prior or contemporaneous oral or written agreements which purport to vary from the terms hereof shall be void.

SECTION 34.

Use of Right-of-way

It is understood that the City, by execution of this Agreement, does not impair or relinquish the City's right to use its rights-of-way for public purposes, nor shall use of the land under this Agreement ever be construed as abandonment by the City of such land acquired for public purposes, and the City does not purport to grant any interest in the land described herein but merely consents to the use of City rights-of-way within the PID by the Contractor, its agents, servants, employees or subcontractors for the improvements and/or services to be provided, furnished or performed by the Contractor as set forth in the PID's approved annual *Service and Assessment Plan* and in accordance with this contract.

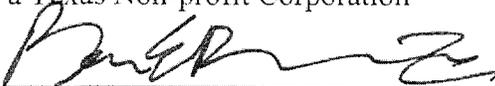
SECTION 35.

Effective Date

This written contract is made and entered, and WITNESS the following signatures this _____ day of _____, 20013.

CENTRO PUBLIC IMPROVEMENT DISTRICT,

a Texas Non-profit Corporation



Ben E. Brewer III
President

ATTEST:

Name: James Richards

Title: Operations Manager

CITY OF SAN ANTONIO,

a Municipal Corporation

Sheryl Sculley
CITY MANAGER

ATTEST:

Leticia Vacek
CITY CLERK

APPROVED AS TO FORM

Michael Bernard
CITY ATTORNEY

Exhibit A

**SAN ANTONIO DOWNTOWN PUBLIC IMPROVEMENT DISTRICT
SERVICE AND ASSESSMENT PLAN
FOR FISCAL YEARS 2014-2018**

I. INTRODUCTION

This Service and Assessment Plan (the “Plan”) is prepared in conformance with Public Improvement District Assessment Act, Texas Local Government Code, Ann. Sec. 372.001, et seq., as amended (the “Act”). The Plan is for five years commencing October 1, 2013 and will continue to be updated annually as required in the above referenced legislation.

II. BOUNDARIES

The boundaries of the San Antonio Downtown Public Improvement District (the “District”) are indicated on the map included as **Exhibit A**.

III. IMPROVEMENTS AND/OR SUPPLEMENTAL SERVICES PLAN

The objective of the Plan is to enhance the experience of pedestrian as well as vehicular traffic in the Downtown area by supplementing existing City of San Antonio (the “City”) services to assure a cleaner, safer and friendlier environment. The Plan anticipates that the City will continue to provide at least its current level of services throughout the District. The District may contract for some service while hiring its own employees for others.

The District is managed by the Centro Public Improvement District (formerly the Centro San Antonio Management Corporation), a non-profit Texas corporation (the “Corporation”), pursuant to a contract with the City of San Antonio entitled Contract for Improvements and/or Services in the San Antonio Public Improvement District in the Downtown Area (the “Management Agreement”). The 15-member Board of Directors (the “Board”) will meet at least twice annually to assure performance of its duties and will be directed in the conduct of its affairs by Roberts Rules of Order as well as its Articles of Incorporation and by-laws. The Board is constituted by its formal action taken at the organizational meeting held on June 29, 1999. Any vacancy which may occur on the Board will be filled by the Board with individuals with comparable demographic characteristics as the person who vacated the Board. The CEO of Centro San Antonio, Inc. shall serve as the CEO of the Corporation and will serve on the Board as an ex-officio, non-voting member. The regularly scheduled Board meetings will be held in San Antonio at the Centro San Antonio Office, 110 Broadway Street, Suite 230 or as otherwise notified. The Board meetings for FY2014 will be held on or about February 12, 2014 and August 20, 2014.

The improvements and/or services in the Plan include reimbursement of costs for the management of the District, supplemental maintenance and landscaping/streetscaping services, marketing and promotion of the District, public service representatives, a business recruitment and retention program, a capital improvements program and other such improvements and programs as may be described in the annual plan below.

YEAR ONE PLAN (October 1, 2013 – September 30, 2014)

PROGRAMS:

Management/Administration

The Corporation has budgeted \$500,000 for Management/Administration, and will provide the following administrative and management services for operations of the District:

- Provide the staff for administration and management of the District as necessary to supervise the daily services provided by the District;

The Corporation has an Operations Manager who supervises the daily services provided by the District. The Manager will assist in administering contracts by sub-contractors and oversee other employees of the Corporation as applicable.

The Corporation has an agreement with Centro San Antonio to provide staff and support services such as clerical, bookkeeping and management oversight.

- Provide management, financial and program monitoring systems for operation of the District as required by the Management Agreement;
- Provide reports to the City concerning operations of the District as required by the Management Agreement;
- Recruit, hire, pay and supervise the work force which the Corporation will utilize to furnish services in the District;
- Provide office space for the District's administrative and management personnel as necessary;

The Corporation will occupy office space and share office services with Centro San Antonio located at 110 Broadway Street, Suite 230 in San Antonio, Texas.

- Coordinate with the City's designated representative concerning the needs for levels of service such as maintenance, horticultural services, infrastructure improvements, levels of police patrols, park police and other such municipal services necessary to be performed within the District;
- Participate in private or public meetings concerning operation and activities related to the District;
- Enter into and supervise contracts with subcontractors to provide landscaping, sidewalk cleaning, public service representatives or other services which the District elects to provide through subcontract;

As required and pursuant to the Management Agreement, the Corporation obtained proposals for the various services to be provided and may issue Request for Proposals or elect to continue utilizing the services of the existing contractors under this plan. To the extent that such proposals will not allow the Corporation and

District to provide all of the services outlined in this Plan for any of the programs outlined below, the Corporation, working in conjunction with the City's designated representative as provided in the Management Agreement, shall reduce the scope of services to fall within the budget for such program.

- Assist the City by providing information about District improvements and/or supplemental services related to potential downtown development proposals and projects;
- Function as the Information Center for all matters relating to the operation of the District and advise the City in a timely manner of any problems with City-owned equipment or facilities in the District;
- Provide a recommended and updated *Service and Assessment Plan* to the City of San Antonio annually and quarterly reports on District activities to the City's designated representative.

District Operations

The Corporation has budgeted \$125,000 for District Operations, and will provide the following services for operations of the District:

- Provide an operations center for the District's administrative and management personnel and/or its subcontractor's employees and equipment, as necessary;

The Corporation occupies approximately 2592 sq.ft. of street-level space and 1663 sq.ft. of garage storage space for use as an Operations Center located at 219 E. Travis St. in San Antonio, Texas. These spaces are utilized specifically for daily services described under "Maintenance", Landscaping / Streetscaping" and "Public Service Representatives". The Operations Center includes space for equipment and uniforms, a briefing center/workroom, a shared kitchen/breakroom, equipment storage area, lockers and access to restrooms and dressing rooms.

The Corporation owns one light-duty pick-up trucks for use by the District's contractors. The trucks enable the contractors to better monitor the provision of the District services and facilitate trash and equipment pick-up and removal. The Corporation has three additional light-duty "Tiger" trucks with trailers for use by the Maintenance & Streetscaping crews. The ownership of the light-duty "Tiger" trucks has been conveyed to the City for licensing purposes due to changes in TXDOT licensing regulations.

Contingent on final assessment revenues and reflected in the proposed Capital Replacement budget line item, the Corporation may purchase a replacement or additional pickup truck and an additional sidewalk vacuum sweeper in FY2014. These purchases will be determined by the Board after final assessment values are certified and assessment revenue is confirmed and collected.

Maintenance

The Corporation has budgeted \$1,356,000 for the Maintenance program. To the extent the Corporation can obtain subcontracts to perform the services within such budget, the following maintenance services will be provided in the District (see **Exhibit B** for estimated service zones):

The Corporation will subcontract sidewalk maintenance and washing services and graffiti abatement during FY2014. The contract will be executed on or about September 20, 2013 and maintenance services under the new contract term are expected to begin on October 1, 2013.

The Corporation will retain supervisory authority over subcontracted personnel and an operations manager will oversee contract administration to assure that services are performed in accordance with subcontracts, the Management Agreement and all applicable laws.

- All maintenance personnel and equipment will be distinctly identified (uniformed) as working for the District;

The Corporation will specify and require uniforms consisting of shorts, short-sleeve shirts and hats for summer months, and long pants, jackets and rain-suits or ponchos for cooler months and wet weather. The contractors or employees providing maintenance services will be required to wear uniforms while on duty. All equipment such as rolling trash bins, trucks, sweepers or other vehicles that the Corporation or the contractor may provide will be identified with the District logo.

- Utilizing “white-wing” crews circulating throughout the District, sidewalks within the District will be inspected and swept to remove litter;

Sidewalk maintenance personnel equipped with brooms, dustpans, rolling trash bins, and two-way communication devices will perform a variety of maintenance activities throughout the District. It is anticipated that the “white-wing” crews will:

- Inspect sidewalks within the District’s public right-of-ways (including parks) for needed maintenance and report to the Operations Center;
- Request needed maintenance requiring City crews to the District Operations Manager, who will in turn contact and report the request to the appropriate City designated representative;
- Sweep sidewalks within the District’s public right-of-ways, removing litter and placing in appropriate trash receptacles;
- Inspect sidewalks within the District public right-of-ways and remove weeds from sidewalk cracks when weather or special events interrupt standard work schedules. This service may also be accomplished utilizing volunteer service labor or adult probation labor services.
- Report needed maintenance requiring other District crews to the Operations Center.

The proposed budget is intended to provide sidewalk maintenance personnel, consisting of work crews in the respective sub-areas shown in **Exhibit B**. The crews will perform sidewalk maintenance services on sidewalks throughout the District from 8:00 a.m. to 9:00 p.m. Monday thru Sunday (various shifts), (excluding special events or holidays when expanded or reduced hours may apply). The budget includes five cross-trained supervisors and one cross-trained project manager at 40 hours each for a total of 240 hours during each week.

This budget also anticipates that the one light-duty truck will be used for street trash bag pick up in coordination with the COSA Downtown Operations Department.

- Utilizing sidewalk sweeping machines, two units acquired in FY2011 will circulate throughout the District sweeping and vacuuming sidewalks to supplement the City and Centro SA sidewalk cleaning schedule;

The proposed budget is intended to provide two uniformed maintenance individuals riding mechanical sidewalk sweeping machines, which will sweep and vacuum sidewalks an average of 70 total hours per week in selected areas in public right-of-ways of the District. The locations and frequency of service shall depend on weather, season of the year and pedestrian activity. The sidewalk sweeping units are intended to supplement the “white wing” services detailed above. The sidewalk sweeping units will not block vehicular traffic operations or impede pedestrian traffic at any time during peak weekday traffic hours.

Contingent on final assessment revenues and reflected in the proposed Capital Replacement budget line item, the Corporation may purchase additional sidewalk vacuum sweepers in FY2014. This purchase will be determined after final assessment values are certified and assessment revenue is confirmed and collected. If purchased, uniformed maintenance individuals will operate the riding mechanical sidewalk sweeping machines, which will vacuum sidewalks an average of 70 total hours per week in selected areas in public right-of-ways of the District.

- Utilizing power washing equipment, six 2-member crews will circulate throughout the District, inspecting and washing sidewalks to supplement the City sidewalk washing schedule;

The proposed budget is intended to provide six uniformed 2-member crews which will provide sidewalk washing services an average of 480 hours per week in selected areas in public right-of-ways throughout the District. The locations and frequency of service shall depend on weather, season of the year and the need for such services. All areas within the District will be periodically inspected for sidewalk washing and scheduling. Power washing equipment will not block vehicular traffic operations or impede pedestrian traffic at any time during peak weekday traffic hours.

Four of the 2-member crews operate truck and trailer pressure washing vehicles Sunday thru Thursday from 9:00 pm till 5:30 am focusing on bus stops and surrounding locations along transit and heavily used pedestrian corridors within the

District. The four 2-member crews are supervised by one of the five cross-trained supervisors. The trucks and trailers units are leased as a component of the maintenance subcontractor contract. The fifth and sixth 2-member crews work Monday thru Sunday from 6:00 am till 3:00 pm pressure washing sidewalks and removing graffiti throughout the District.

- Inspect for and remove graffiti from public areas in the District (including street furniture, benches, drinking fountains, fountains, public art, street planters, trash receptacles, recycling receptacles, and other public streetscape improvements, pedestrian lighting, District and traffic signage, equipment and signal cabinets, kiosks, and other related improvements in public areas) and coordinate with the City's graffiti removal program. The District will attempt to remove graffiti within a 24-hour period from the time of discovery. Graffiti includes paint, handbills and stickers, but does not include scratched or etched surfaces;

The "white-wing" crews described above will provide limited graffiti abatement of small tags, stickers, handbills and posters from painted and metal surfaces on an on-going basis as they perform litter pick-up. For graffiti abatement of a larger scale or area that is not regularly being addressed by the "white wing" crews, the District will report the graffiti and coordinate with the designated City representative to determine how and by what means the graffiti can be abated. The District will also report graffiti on private and public leased and/or vacant property to be addressed pursuant to the City graffiti ordinance.

- The Corporation does not intend to empty existing trash & recycling receptacles in the public right-of-ways unless that receptacle is over half-full or an overflow situation exists. If either condition is present, the trash receptacle is emptied, re-bagged and the full bag is placed in the receptacle for pick-up by City and/or District crews.
- The Corporation intends to provide funding for a "Grackle Relocation Program" which will be extended in FY2014. The program has been successful and anticipates a further reduction in grackle excrement due to changes in the roosting patterns within the District which will reduce the daily demand for power washing on many of the District's sidewalks. The Corporation has budgeted \$60,000 to participate in the program for FY2014 to be expended out of the Maintenance expense budget.
- The Corporation does not intend to provide special event maintenance services, unless such services are contracted for under a separate agreement or by an amendment to the Management Agreement. Such special event maintenance services are not addressed in this Plan. Normal schedules and services will be adjusted to accommodate special events that occur within the District.
- The Corporation shall, at its sole expense, maintain all District vehicles in a first-class operable state and safely handle the day-to-day operation of all vehicles which includes fueling and arranging for a mechanical and safety inspection of each vehicle both annually and before the vehicle is placed in service. Third-party certified vehicle inspections shall be conducted both before any vehicle is placed in service by Corporation or subcontractor of Corporation and annually, for mechanical and safety compliance as well as all other applicable rules, safety standards, regulations and laws.

Landscaping/Streetscaping

The Corporation has budgeted \$400,000 for the Landscaping/Streetscaping program. To the extent the Corporation can obtain subcontracts to perform the services and purchase items within such budget, the following landscaping/streetscaping services will be provided in the District (see **Exhibit C** for areas anticipated to be covered):

The Corporation will subcontract landscaping/streetscaping services during FY2014. The contract will be executed on or about September 20, 2013 and landscaping/streetscaping services under the new contract term are expected to begin on October 1, 2013.

The Corporation will retain supervisory authority over subcontracted personnel, and an operations/services manager will oversee contract administration to assure that services are performed in accordance with subcontracts, the Management Agreement and all applicable laws.

- All landscaping/streetscaping personnel and equipment will be distinctly identified (uniformed) as working for the District;

The Corporation will specify and require uniforms consisting of shorts, short-sleeve shirts and hats for summer months, and long pants, jackets, rain-suits or ponchos for cooler months and wet weather. The contractors or employees providing landscaping services will be required to wear uniforms while on duty. All equipment or other vehicles that the Corporation or the contractor may provide will be identified with the District logo.

- Install and maintain approved supplemental landscaping and planters in the District as follows;
 - This Plan assumes that all supplemental landscaping and planters installed in the District will be done with the approval of the City's Historic Design and Review Commission (HDRC).
 - All landscape/streetscape improvements installed in the District from FY2000 thru FY2013, shall continue to be maintained as defined below. Care will be taken to avoid impeding vehicular and pedestrian traffic when maintaining these improvements, and days and hours of maintenance service will be restricted as described for additional improvements listed below. The planters are located on light poles, stair rails and in large pot clusters throughout the District boundary. The service will include installation, planting and annual maintenance (watering, fertilizing, pruning, wound treating and disease control). The light-pole planters and stair rail planters will be replanted three times during the year. The small plants in the sidewalk clusters will also be replanted twice during the year. All dead or stolen plants will be replaced on an as-required basis. A three or four-person crew will circulate throughout the District and any additional contract areas to maintain these improvements on a daily basis or as required.
 - The Corporation proposes to install additional pot clusters along sidewalk in the expanded boundary area of the District in FY2014.

- The Corporation will continue to maintain and water the three planters on Convention Plaza at the Streetcar Station belonging to the City of San Antonio.
- The Corporation may install supplemental plant materials in planters and planting beds in other City parks and along the RiverWalk, or in the public right-of-way, if sufficient budget funds are available and with the approval of the City.
- The Corporation will advise the City's designated representative in a timely manner of the need for capital improvements, replacements, repairs and/or relocations of City landscaping/streetscape improvements or other City property in the District.

Public Services Representatives

The Corporation has budgeted \$750,000 for a Public Service Representative program. To the extent the Corporation is able to provide the services within such budget, the following public service representative services will be provided (see **Exhibit D** for estimated coverage areas), either directly or through a subcontractor;

The Corporation will subcontract public service representative services during FY2014. The contract will be executed on or about September 20, 2013 and public service representative services under the new contract term are expected to begin on October 1, 2013.

The Corporation will retain supervisory authority over subcontracted personnel, and an operations/services manager will oversee contract administration to assure that services are performed in accordance with subcontracts, the Management Agreement and all applicable laws.

- All Public Service Representatives (PSR's) will be distinctly identified (uniformed) as working for the District;

The Corporation will specify and require uniforms consisting of shorts, short-sleeve shirts and hats for summer months, and long pants, jackets, rain-suits or ponchos for cooler months and wet weather. The contractors or employees providing the PSR services will be required to wear uniforms while on duty. Any equipment, kiosk, bicycles or other vehicles that the Corporation or the contractor may provide related to this service will be identified with the District logo.

- The PSR's will be trained to provide information, to provide directions, to attempt to render assistance, and to observe and report undesirable conditions;

The Corporation and/or the contractor for this service will maintain and conduct a specially developed training program for the PSR's which is anticipated to consist of both classroom and in-field training covering such subjects as personal conduct, CPR and First Aid certification, public relations, downtown directions and attractions, locations of bus and trolley stops, bus route and schedule information, effective communications, use of equipment, etc. It is anticipated that various City departments will continue to cooperate and assist in the training of the public service representatives (SAPD Foot & Bicycle Patrol, SAPAR Park Police, SAFD, EMS, COSA City Attorneys office, etc.) including VIA Metropolitan Transit.

- The PSR's will be equipped with two-way communication capability;

The Corporation will purchase and/or lease two-way radios for all PSR's to carry and utilize while on duty in the District. PSR's will be in contact with the District operations center and will be able to contact other District and City service providers via the operations center.

- The PSR's will not be, or function as, deputized law enforcement officers, but will work in close coordination with public and private law enforcement individuals and agencies within and surrounding the District;
- The PSR's will circulate throughout the District in assigned sub-areas daily as shown in Exhibit D. The schedule in the sub-areas will fluctuate to meet daily, seasonal or special event needs and conditions;

The proposed budget is intended to provide PSR's in each of the respective sub-areas shown in **Exhibit D**, from 9:00 a.m. until 9:00 p.m., every day, Monday thru Sunday. There will also be PSR's on duty, in addition to those described above, during all shifts and days of the week that will be strategically positioned at key high-pedestrian traffic intersections in the District. Actual personnel and assignment to sub-areas may vary depending on time-of-day, weather, season, special events, holidays or public activity. In addition, one cross-trained project manager and five cross-trained supervisors of the PSR's and one person assigned to staff the Operations Center will be on duty at all times.

- The Corporation will, as a part of the PSR program, discuss with the City's designated representative, the need for and concerning the levels of police foot and bicycle patrols, police cruisers, park police and the overall law enforcement presence in the District;
- PSR's will staff the Centro Info Information Center/Public Restroom Facility in the River Bend Garage located at 210 N. Presa. One PSR will be on duty at or in the vicinity of the facility from 9:00 a.m. until 9:00 p.m. seven days a week throughout the year with the exception of certain holidays.

Business Retention & Recruitment Program

The Corporation has budgeted \$300,000 for the development and implementation of a business retention and recruitment program. To the extent the Corporation is able to provide the services within such budget, the following business retention and recruitment services will be provided for the District, either directly or through a subcontractor:

- Develop and implement a business retention and recruitment plan and campaign detailing the existing businesses located within the District and opportunities for new business locations within the District;
- Provide funding for the hire of an individual or consultant services to administer implementation of the program.

Capital Projects

The Corporation has budgeted \$300,000 for capital projects within the District. To the extent the Corporation is able to provide the services within such budget, the following capital projects may be provided in the District, either directly or through a subcontractor:

- Provide funding or partial funding for capital projects with the District including but not limited to: addition of furniture, signage, lighting, painting and other improvements within the public right-of-way within the District;
- Provide funding for façade improvements for properties located within the District;
- Provide funding for the hire of an individual or consultant services to administer implementation of the program.

Marketing/Image Campaign and Promotions

The Corporation has budgeted \$300,000 for a marketing/image campaign and promotion program. To the extent the Corporation is able to provide the services within such budget, the following marketing and promotion services will be provided for the District, either directly or through a subcontractor:

- Develop and maintain a public relations/public service plan and campaign describing the services and activities of and within the District to reach downtown workers, residents, visitors, surrounding neighborhoods and the greater San Antonio metropolitan area. It is anticipated that the Corporation will publish a newsletter, either printed or electronically, on a regular basis throughout the year, to describe the services and activities in the District;
- Based on the results of the Bexar County Market Research project gauging public perception about downtown and the center city conducted by Basalice & Associates in FY2013, the District will contribute funds towards the development of a marketing & messaging campaign and plan for the District and center city in FY2014.
- Seek a wide variety of positive media exposure for and the area surrounding the District;
- Organize, publish and distribute a calendar of events in and surrounding the District;
- Cooperate and communicate with businesses, organizations and governmental entities in and surrounding the District, and serve as a communication resource for information about the District.
- This budget and program anticipates that the Corporation will continue to support the development of and enhancement of a website for Centro San Antonio and related entities such as Downtown Alliance San Antonio.
- Provide funding for the hire of an individual or consultant services to administer implementation of the program.

Other Services

The Corporation may at some time during FY2014 provide additional services and/or participate in additional programs that will be of benefit to properties located within the District as desired and directed by the Board of Directors and agreed to and approved by the City. A Program Reserve Fund, as described below, has been established in the budget for this purpose, and any unused funds remaining in this budget item at the end of the year will be placed in an investment account for use on projects, to be approved by the Board and the city's designated representative, at a future date.

Contracts and Other Revenue

In addition to the public and private assessment revenue, the District receives revenue from several other sources. Per an inter-local agreement between the City and VIA Metropolitan Transit ("VIA"), VIA provides \$225,000 annually to the District for services provided by the District on behalf of VIA. The District proposes to re-enter into an agreement with Bexar County to provide \$150,000 in funding to the District for services provided in the District boundary on behalf of Bexar County. Also the District proposes to enter into an agreement with the Christus Santa Rosa Health System to provide \$150,000 in funding to the District for services provided in the District boundary on behalf of Christus Santa Rosa. The District receives funds from the City per an agreement the City has with the management company for the Majestic and Empire Theatres (Estimated to be \$16,661 for FY2014). Additionally, the District receives funds from the City per an agreement the City has with the Corporation for special power washing that is provided in the District boundary, and a separate source of funding other than assessment revenue will pay for these contract services and is reflected in annual budget. (Estimated to be \$156,000 for FY2014).

Equipment Replacement & Unallocated Contingency, Program Reserve

In FY2005, the Corporation established an equipment replacement fund to replace existing and purchase new equipment. This fund has been utilized since FY2005 to purchase new vehicles and equipment to replace used equipment and help service the District. In FY2014 the Corporation may purchase, depending on the availability of funds, two new riding sidewalk vacuum sweepers and a replacement pickup truck. In FY2006 the Corporation established a Program Reserve Fund to establish an account to be used for special projects. In FY2014 an additional \$25,000 has been budgeted for the Program Reserve Fund. Projects that the Program Reserve Fund could fund would require the approval of the Corporation's Board of Directors and the City's designated representative.

YEAR ONE (FY2014) PROJECTED BUDGET

BEGINNING BALANCE	1,116,535
REVENUES	
Assessments (Private)*	3,051,396
Assessments (COSA and CPS)	262,570
Contracts and Other Revenue	697,661
Interest on Deposits	7,500
Delinquent Payments and P&I	<u>30,000</u>
TOTAL REVENUE	<u>4,049,127</u>
AMOUNT AVAILABLE	5,165,662
EXPENDITURES	
Management/Administration	500,000
District Operations	125,000
Maintenance	1,200,000
Landscaping/Streetscaping	400,000
Public Service Representatives	750,000
Business Retention & Recruitment	300,000
Capital Projects	300,000
Marketing / Image / Campaign and Promotions	300,000
Equipment Replacement & Contingency	150,000
Non-PID Contract	156,000
Reserve	<u>25,000</u>
TOTAL EXPENSES	<u>4,206,000</u>
ENDING BALANCE	959,662

* Assumed 98% collection of private assessments

Note : Based on Estimated Certified Private Value = \$2,106,396,081

(\$.15/\$100 commercial) (\$.09/\$100 residential) total potential yield = \$3,113,670

PLAN FOR YEARS TWO THROUGH FIVE (Oct. 1, 2014 – Sept. 30, 2018)

PROGRAMS:

Management / Administration

The Corporation will provide the following administrative and management services for operations:

- Provide the staff, administrative services, office space, and work force necessary to furnish services in the District;
- Provide management, supervision, and financial and program monitoring systems for operation of the District as required by the Management Agreement;
- Coordinate with and provide regular reports to the City's designated representative on operations, services provided, activities and conditions within the District as required by the Management Agreement;
- Enter into and supervise contracts with subcontractors;
- Serve as an information resource for businesses, services, activities and physical improvements within the District;
- Provide a recommended and updated *Service and Assessment Plan* to the City of San Antonio annually and quarterly reports to the City's designated representative.

Maintenance

To the extent addressed in the approved Plan and budget, the Corporation shall provide the following maintenance services, either directly or through a subcontractor:

- All maintenance personnel and equipment will be distinctly identified (uniformed) as working for the District;
- Provide sidewalk sweeping, litter removal and sidewalk washing to maintain an attractive pedestrian environment within the District, coordinated with and supplementing the City's maintenance services;
- Inspect for and remove graffiti from public areas in the District (including street furniture, benches, drinking fountains, fountains, public art, street planters and other public streetscape improvements, trash receptacles, pedestrian lighting, District signage, kiosks, and other related improvements in public areas) as provided in the Plan and coordinated with the City's graffiti removal schedules.

Landscaping / Streetscaping

To the extent addressed in the approved Plan and budget, the Corporation shall provide the following landscaping/streetscaping services, either directly or through a subcontractor:

- All landscaping/streetscaping personnel and equipment will be distinctly identified (uniformed) as working for the District;
- Care for and maintain all landscaping (including planters) funded, added, and/or installed by the District, its agents, servants, employees or subcontractors within the District boundary including watering, fertilizing, pruning, plant replacement, and treatment of wounds, disease control, and insect control;
- Expand program to install approved supplemental landscaping and planters in the District to the extent budgeted and able to be adequately maintained.

Public Service Representatives

To the extent addressed in the approved Plan and budget, the Corporation shall provide the following public service representative program, either directly or through a subcontractor:

- All Public Service Representatives (PSR's) will be distinctly identified (uniformed) as working for the District;
- PSR's will be trained and knowledgeable about businesses and services located in and surrounding the District, equipped with communication devices and circulating throughout the District;
- The PSR's shall work in close coordination with various public and private law enforcement individuals and agencies within the District, but they will not be or function as deputized law enforcement officers.
- The District will, as a part of the PSR program, consult with the City's designated representative concerning the needs for levels of police foot patrols, police bike patrols, mounted police patrols, police cruisers, park rangers, and the overall law enforcement presence in the District.

Business Recruitment and Retention Program

To the extent addressed in the approved Plan and budget, the Corporation shall provide a business retention and recruitment program which shall include the following services:

- Develop and implement a business retention and recruitment plan and campaign detailing the existing businesses located within the District and opportunities for new business locations within the District;
- Provide funding for the hire of an individual or consultant services to administer implementation of the program.

Capital Projects

To the extent addressed in the approved Plan and budget, the Corporation shall provide funds for capital projects which shall include the following services:

- Provide funding or partial funding for capital projects with the District including but not limited to: addition of furniture, signage, lighting, painting and other improvements within the public right-of-way within the District;
- Provide funding for façade improvements for properties located within the District;
- Provide funding for the hire of an individual or consultant services to administer implementation of the program.

Marketing/Image Campaign and Promotions

To the extent addressed in the approved Plan and budget, the Corporation shall provide a marketing/image and promotions campaign and program which shall include the following services:

- Maintain marketing/image campaign and a public relations/public service plan to promote and describe the District; the services being provided; and activities, attractions, and events occurring within and surrounding the District;
- Seek varieties of positive media exposure for the District and surrounding areas;
- Serve as a communication resource for information about the District.

Other Services and/or Improvements

The Year Two through Year Five Projected Budget that follows this section projects annual revenue increases of two percent per year in Public and Private Assessments. The expenses for Management/Administration, Operations, Contractual Services (Maintenance, Landscaping/Streetscaping, Public Service Representatives, Business Recruitment & Retention, Capital Projects and a Marketing/Image Campaign & Promotions) and are projected to increase by two percent in Year Two through Year Five. The projections for Years Two, Three, Four and Five are hypothetical. A new budget will be established each year that will be based on the assessment rate, assessed valuation, assessment collections and services to be delivered. The remaining fund balance from each year will be carried forward for use as the beginning balance in the following year.

In the event that the District is not re-authorized in the last year of this Plan, property of the Corporation and District will be sold and funds from the sale of property added to any remaining fund balances. The remaining fund balance will first be used to pay for expenses necessary to dissolve the District, and any remaining funds will be used as mutually agreed upon by the City and the Corporation's Board of Directors.

The Corporation may provide additional services and/or programs other than those described above when desired and directed by the Board of Directors and agreed to by the City.

**YEAR TWO (FY2015) THROUGH FIVE (FY2018) PROJECTED BUDGET
ASSESSMENT PLAN**

	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>	<u>FY2018</u>
BEGINNING BALANCE	969,356	809,845	647,645	482,700
REVENUES				
Assessments (Private)*	3,112,424	3,174,672	3,238,166	3,302,929
Assessments (COSA and CPS)	267,821	273,178	278,641	284,214
Contracts and Other Revenue	708,494	719,544	730,815	742,311
Interest on Deposits	7,650	7,803	7,959	8,118
Delinquent Payments and P&I	30,600	31,212	31,836	32,473
TOTAL REVENUE	<u>4,126,989</u>	<u>4,206,409</u>	<u>4,287,418</u>	<u>4,370,046</u>
AMOUNT AVAILABLE	5,096,345	5,016,255	4,935,062	4,852,745
EXPENDITURES				
Management/Administration	510,000	520,200	530,604	541,216
District Operations	127,500	130,050	132,651	135,304
Maintenance	1,224,000	1,248,480	1,273,450	1,298,919
Landscaping/Streetscaping	408,000	416,160	424,483	432,973
Public Service Representatives	765,000	780,300	795,906	811,824
Business Retention & Recruitment	306,000	312,120	318,362	324,730
Capital Projects	306,000	312,120	318,362	324,730
Marketing / Image / Campaign and Promotions	306,000	312,120	318,362	324,730
Equipment Replacement & Contingency	153,000	156,060	159,181	162,365
Non-PID Contract	156,000	156,000	156,000	156,000
Reserve	25,000	25,000	25,000	25,000
TOTAL EXPENSES	<u>4,286,500</u>	<u>4,368,610</u>	<u>4,452,362</u>	<u>4,537,789</u>
ENDING BALANCE	809,845	647,645	482,700	314,956

* Assumed 98% collection of private & public assessments
& assumes 2% growth in private valuation per year

** Assumed 2% growth in P&I per year

*** Assumed 2% increase in expenses per year

The assessment year will be concurrent with the City's Tax Year, January 1, through December 31. The Assessment levy against private property (based on \$.15/\$100 of assessed valuation for all properties except for residential condominiums which will be based on \$.09/\$100 of assessed valuation) is estimated in Year One to be **\$3,113,670**. For budgeting purposes, a 98% collection rate is assumed yielding approximately **\$3,051,396**. The assessment levy on private properties is expected to grow at an approximate rate of 2% per year each year thereafter through FY2018.

Each commercial property in the District is to be assessed based on the valuation on the property as determined by the Bexar Appraisal District while each residential property in the District is to be assessed based on the valuation on the property as determined by the San Antonio Independent School District and as certified by the City of San Antonio Tax Assessor/Collector. Notice of the levy of assessment is to be given as provided in Section 372.001 in the Act. The Assessment Levy Statement will be sent to each property owner in the District and the assessment levy will be due and payable at the same time property taxes are due and payable to the City of San Antonio Treasury. Penalty and interest will accrue on delinquent accounts in accordance with ad valorem penalty and interest schedules of the City of San Antonio. Payments become delinquent as of February 1st after assessment is levied. Interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid.

Of the **952** property accounts in the District, **85** are certified as exempt, leaving **867** accounts to be assessed in FY2014. **772** accounts in the District are certified to date for a value of **\$2,076,327,421** for the 2013 assessment year. The remaining **95** accounts in the District, which are not yet certified, have a prior year value of **\$30,068,660**. This Plan assumes that the uncertified accounts will at least remain at the prior year value. When the value of the certified accounts is added to the prior year value of the uncertified accounts, the total value of private properties in the District is **\$2,106,396,081**.

The value of taxable properties, when combined with City Exempt property values totaling **\$175,046,666** (City & CPS), provides a total valuation of the District upon which to base the assessment for FY2014 of **\$2,281,442,747**. The valuations on which the Budget is based in this plan for the remaining years of the current district's authorization are estimated to be sufficient to provide the improvements and/or services as described above in this Plan.

Exhibit B

CITY OF SAN ANTONIO Existing Downtown Maintenance, Horticultural, and Landscaping Services

The City shall continue to provide the area included in the Downtown Public Improvement District (PID) with a variety of municipal services. Services not supplemented by the PID will continue to be provided by the City, including: fire and police protection; emergency medical services; code compliance services; building inspection services; public health services; library services; economic development and planning services; traffic, streets, parking, and drainage services; street cleaning services; and convention and visitor services.

Described below are the street- and River Walk-level maintenance, horticultural, and landscaping services currently provided by the City which will continue to be provided by the City at these levels (subject to City Council approved budget adjustments) and which will be supplemented by the PID:

MAINTENANCE

1. Powerwashing and General Washing

a. Sidewalk Powerwashing and Cleaning

- 5.1 miles of Downtown sidewalks are swept nightly.
- Bridge, flagstone, and concrete structures are power cleaned as needed.
- Nightly street sweeping of downtown business district.

b. River Walk washing and cleaning

- Stairwells are inspected daily and cleaned as needed.
- Frequency is heaviest in the River Bend and Extension areas to the North Channel, with the heavily traveled stairwells in the restaurant areas receiving the most attention.
- 3.5 miles of sidewalks pressure washed monthly

2. Trash Removal

a. Street-level

- Downtown public refuse receptacles are serviced twice daily, seven days a week.

b. River Walk-level

- A maintenance crew spends four hours each day cleaning debris from the water way in the River Bend and Extension to the North Channel.

3. Special Event Services

a. Street-level

- Crew cleans street-level after designated special events.
- These events include: New Years Eve celebration; Night in Old San Antonio; Battle of Flowers parade; Fiesta Flambeau parade; Fiesta River parade; Jazz Alive festival; Holiday River parade and tree lighting; Alamo Bowl; Luminaria, and other city-sponsored events.
- Crews install and remove Christmas lights in Alamo Plaza, Travis Park, Milam Park and Houston Street.

b. River Walk-level

- Crew (at full-staff level) cleans the River Walk in the River Bend and Extension to the North Channel following designated special events, as required.
- These events include New Years Eve celebration; Fiesta River parade; Holiday River parade.
- City installs and removes Christmas lights along River Walk.

4. Graffiti Abatement

a. Street-level

- The City's comprehensive Graffiti Abatement Program will continue to include the PID area.

b. River Walk-level

- A power washing crew immediately removes reported graffiti.

HORTICULTURAL AND LANDSCAPING SERVICES

Existing City plantings, planting areas, and turf are those controlled by the City as of September 30, 2013, and those subsequently installed by the City or City-contracted crews. These do not include privately controlled landscaping improvements, non-City controlled public landscaping, or PID funded plants and landscaping. These City horticultural and landscaping services may be supplemented by the PID.

The PID will be responsible for the maintenance and upkeep of its plantings, three- pot

clusters, lamp post plantings and handrail plantings. The City will remain responsible for the horticultural and landscaping services currently provided by the City for existing City plantings, planting areas, and turf at the following levels (subject to City Council approved budget adjustments):

1. Plantings and Replacements

- Existing City perennial plantings and turf (trees, shrubs, herbaceous perennials, groundcover, and grasses) are replaced as needed (in event of death or planting area renovations).
- Annuals in existing City planting areas (pansies, marigolds, vinca, begonias, etc.) are replaced two or three times each year.

2. Watering

- Amount and frequency of watering existing City plantings and turf depends on plant type, temperature, and rainfall.
- Turf is watered once weekly in hot months and biweekly in cooler months.
- Annual plantings are watered up to three times weekly during hot months and once weekly during cooler months.
- Xeriscape-type perennials are watered up to twice monthly.
- Nonxeriscape-type perennials are watered once weekly in hot months and biweekly in cooler months.

3. Mowing and Trimming

- Mowing and trimming is performed weekly from April through September, twice monthly from October through December, once monthly in January and February and twice monthly in March. Timing is subject to change due to varying weather conditions.

4. Inspecting

- Inspections of existing City plantings, planting areas, and turf occur up to twice weekly.

5. Weeding, Fertilizing, Pruning, and Treatment of Wounds

- Performed on existing City plantings, planting areas, and turf as needed.
- Need determined by inspection.

Exhibit C

Vehicle Inventory

In the event Contractor conveys the title and ownership of any vehicles or equipment to the City of San Antonio, the information to be provided shall include current State License Numbers, Vehicle Identification Number, (VIN), the year, make, model and type of each vehicle, Asset ID number, and the date of its acquisition for each vehicle and/or equipment transferred to City, and used by Contractor pursuant to this Agreement.