KRH
6/18/15
Item No. 38

AN ORDINANCE 2015-06-18-0564

APPROVING THE TERMS AND CONDITIONS AND AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH RICONDO & ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED $980,000.00 FOR AIRPORT FINANCIAL MANAGEMENT CONSULTANT SERVICES FOR THE SAN ANTONIO AIRPORT SYSTEM.

* * * * * *

WHEREAS, the Aviation Department requires consulting services to: (1) provide support for the a) development of airport financial and business-related reports, models, analyses and forecasts; b) development of Airlines' Rates and Charges; and c) preparation of reports related to Passenger Facility Charges, Customer Facility Charges and Airport Improvement Program grants; (2) to provide general airport financial advisory services, airport bond feasibility services and debt service analyses; and

WHEREAS, the City received three responses to a Request for Qualifications (RFQ) for professional services for airport financial management services released in March 2015 and an evaluation committee with representatives from the Aviation and Finance Departments reviewed the proposals and, based on the evaluation criteria established in the RFQ, recommends awarding the professional services agreement to Ricondo & Associates, Inc.; and

WHEREAS, it is necessary to authorize the execution of a professional services agreement in an amount not to exceed $980,000.00 with Ricondo & Associates, Inc for airport financial management consultant services for the San Antonio Airport System; **NOW THEREFORE,**

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

SECTION 1. The terms and conditions of a Professional Services Agreement with Ricondo & Associates, Inc in an amount not to exceed $980,000.00 for airport financial management consultant services for the San Antonio Airport System, are hereby approved. The City Manager, or her designee, is authorized to execute a Professional Services Agreement with Ricondo & Associates, Inc, a copy of which is set out in **Exhibit 1**.

SECTION 2. Funding in the amount of $60,000.00 for this Ordinance is available for Fund 51001000, Cost Center 3305020001 and General Ledger 5201040, as part of the Fiscal Year 2015 Budget.

SECTION 3. Additional funding in the amount of $920,000.00 for this Ordinance is contingent upon City Council approval of subsequent fiscal year budgets.

SECTION 4. Future funding through the renewal term of this contract is also contingent upon City Council approval of subsequent fiscal year budgets.

SECTION 5. Payment not to exceed the budgeted amount is authorized to Ricondo & Associates, Inc. and should be encumbered with a purchase order.

SECTION 6. 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 SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 7. This Ordinance shall be effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED and APPROVED this 18th day of June, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda
Acting City Attorney

Agenda Item:	**38 (in consent vote: 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 25A, 25B, 25C, 25D, 25E, 25F, 25G, 25H, 26, 28, 29, 30, 31, 32, 33, 34, 35A, 35B, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64A, 64B, 65A, 65B, 66A, 66B, 66C, 67A, 67B, 67C, 68A, 68B, 68C, 69A, 69B, 69C, 69D, 70A, 70B, 70C, 70D, 70E)**
Date:	06/18/2015
Time:	10:00:14 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a professional services agreement with Ricondo & Associates, Inc. for airport financial management consultant services for the San Antonio Airport System in the amount of $980,000.00 for three years with the option to renew for two additional one-year terms. [Ed Belmares, Assistant City Manager; Frank Miller, Director, Aviation]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				
Alan Warrick	District 2		x				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				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Exhibit 1

PROFESSIONAL SERVICES AGREEMENT
FOR
AIRPORT FINANCIAL MANAGEMENT CONSULTANT SERVICES
FOR THE
SAN ANTONIO AIRPORT SYSTEM

This Agreement is made and entered into by and between the **City of San Antonio** (hereinafter referred to as "City"), a Texas Municipal Corporation acting by and through its City Manager, and **Ricondo & Associates, Inc.** (hereinafter referred to as "Consultant") by and through its designated officer(s) pursuant to its by-laws or a resolution of its Board of Directors, both of which may be referred to herein collectively as the "Parties".

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IN CONSIDERATION of the mutual covenants, terms, conditions, privileges and obligations herein contained, City and Consultant do hereby agree as follows:

I. DEFINITIONS

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

1.1 "Director" means the director of the City's Aviation Department

1.2 "Project" means the provision of airport financial management consulting services on an as needed basis as more fully set out in **Article III.** Scope of Services.

1.3 "SAAS" means the San Antonio Airport System which is comprised of San Antonio International Airport and Stinson Municipal Airport.

1.4 "SAT" means San Antonio International Airport.

II. PERIOD OF SERVICE

The term of this Agreement shall commence upon its approval by the San Antonio City Council and the execution by both parties and shall remain in full force and effect for a period of three (3) years, unless otherwise terminated in accordance with the terms of this Agreement. The City shall retain an option to extend this Agreement for two additional one year periods. The Director shall have the authority to exercise such options at his discretion without City Council action.

III. SCOPE OF SERVICES

3.1 Consultant, in consideration for the compensation herein provided, as outlined in **Article V.** Compensation, shall render the required professional services in connection with the Project, as more specifically outlined in Exhibit 1, Scope of Services.

3.2 Consultant shall complete all Project work within the Scope of Services in compliance with this Agreement, and agrees to staff the Project with sufficient necessary, qualified personnel to the Project, in order not to delay or disrupt the progress of the Project. Time is of the essence.

3.3 All work performed and reports and deliverables required pursuant to this Agreement shall be in compliance with all laws, rules, regulations and FAA Advisory Circulars.

3.4 All services and work performed under this Agreement must be conducted in full conformance with the Texas Occupations Code. Persons retained by Consultant to perform work pursuant to this Agreement shall be employees or subcontractors of Consultant.

IV. COORDINATION WITH THE CITY

4.1 Consultant shall hold periodic conferences with Director or his designee, so that the Project, as developed, shall have the full benefit of City's experience, and knowledge of existing needs and facilities, and be consistent with the City's current policies and standards.

4.2 The Director or his designee shall act on behalf of City with respect to the work performed under this Agreement, and shall have complete authority to transmit instructions, receive information, and interpret and define City's policies and decisions with respect to materials, equipment elements and systems pertinent to Consultant's services.

4.3 City shall provide written notice to the Consultant of any errors or omissions discovered in the Consultant's services, or performance, or of any development that affects the scope or timing of Consultant's services.

4.4 City promptly will give written notice to Consultant whenever City observes, discovers or otherwise becomes aware of any defect in Consultant's services, or any development that affects the scope or timing of Consultant's services.

V. COMPENSATION

5.1 For and in consideration of the services to be rendered by Consultant, City shall pay Consultant the not to exceed fee set forth in this Article V, Compensation. Nothing contained in this Agreement shall require City to pay for any unsatisfactory work, as determined solely by Director, or for work that is not in compliance with the terms of this Agreement. City shall not be required to make any payments to Consultant at any time Consultant is in default under this Agreement.

5.2 The total compensation for all work to be performed by Consultant as fully defined in the Scope of Services, to include all travel and other expenses, shall not **Nine Hundred Eighty Thousand and 00/100 U.S. Dollars ($ 980,000.00)**. Consultant acknowledges that such not to exceed fee shall be sufficient compensation for all services, travel and other expense to be performed pursuant to or associated with the Scope of Services.

5.3 Consultant shall bill all services in accordance with the hourly rates set out in Exhibit 2, Fee Schedule. Consultant may submit invoices no more than once monthly. Such invoices must be for work actually performed and actual travel and other expenses incurred and not previously invoiced and must show: a) the hours being billed delineated by task performed, employee name and position, b) a summary of the services performed during the period covered by the invoice, c) travel and other expenses with supporting documentation attached; and d) the total amount due for services, travel and expenses. Allowable travel and other expenses shall be invoiced at the actual cost incurred without markup and must be in compliance with the Aviation Department Consultant and Contractor Reimbursable Expense Policy to be eligible for reimbursement. City reserves the right to request such additional information as the City deems necessary to support the invoiced charges. City shall pay all undisputed amounts due under this Agreement within 30 days of receipt of a properly addressed invoice. Payment is deemed to be made on the date of mailing of the check or electronic fund transfer.

5.4 Consultant shall adhere to the Aviation Department Consultant and Contractor Reimbursable Expense Policy, attached hereto as Exhibit 3, governing expenditures.

5.5 Consultant shall, within ten (10) days following receipt of compensation from City, pay all bills for services performed and furnished by others, in connection with the Project and the performance of the work, and shall, if requested, provide City with evidence of such payment. Consultant's failure to make payments within such time shall constitute a material breach of this Agreement, unless Consultant is able to demonstrate to City bona fide disputes associated with the unpaid sub-consultant and its services. Consultant shall include a provision in each of its sub-agreements imposing the same payment obligations on the sub-consultants as are applicable to Consultant hereunder, and if City so requests, shall provide copies of such payments by Consultant to City. If Consultant has failed to make payment promptly to the sub-consultant for the Services for which City has made payment to Consultant, City shall be entitled to withhold payment to Consultant to the extent necessary to protect City.

5.6 Consultant warrants that title to all services covered by an invoice will pass to City no later than the time of payment. Consultant further warrants that, upon submittal of an invoice, all services for which invoices have been previously issued and payments received from City shall, to the best of Consultant's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrance in favor of Consultant or other persons or entities making a claim by reason of having provided labor or services relating to this Agreement. CONSULTANT SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY ANYONE CLAIMING BY, THROUGH OR UNDER THE ITEMS COVERED BY PAYMENTS MADE BY CITY TO CONSULTANT

5.7 City may withhold compensation to such extent as may be necessary, in City's opinion, to protect City from damage or loss for which Consultant is responsible, because of:

5.7.1 delays in the performance of Consultant's work;

5.7.2 third-party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to City is provided by Consultant;

5.7.3 failure of Consultant to make payments properly to sub-consultants or vendors for labor, materials or equipment;

5.7.4 reasonable evidence that Consultant's work cannot be completed for the amount unpaid under this Agreement;

5.7.5 damage to City;

5.7.6 persistent failure by Consultant to carry out the performance of its services in accordance with this Agreement; or

5.7.7 accrued liquidated damages in excess of the total amount of capacity remaining on the not to exceed contract amount under the Agreement.

5.8 When the above reasons for withholding are removed or remedied by Consultant, compensation of the amount withheld will be made within a reasonable time. City shall not be deemed in default by reason of withholding compensation as provided for in this article.

5.8.1 Acceptance of final compensation by Consultant shall constitute a waiver of claims except those previously made in writing and identified by Consultant as unsettled at the time of final application for compensation.

5.8.2 Consultant agrees to maintain adequate books, payrolls and records satisfactory to City in connection with any and all Services performed hereunder. Consultant agrees to retain all such books, payrolls and records (including data stored in computer) for a period of not less than four (4) years after completion of Services. At all reasonable times, City and its duly authorized representatives shall have access to all personnel of Consultant and all such books, payrolls and records, and shall have the right to audit same.

5.9 Right to Audit. The Consultant will provide supporting evidence necessary to substantiate charges related to the Agreement and allow the City to access Consultant's "records" associated with this Agreement. Consultant's "records" shall be made available within two weeks of the written request for open inspection, audit, and/or reproduction during normal business working hours. Such audits may be performed by a City's representative or an outside representative engaged by City. The City or its designee may conduct such audits or inspections throughout the term of this Agreement and for a period of three years after final payment or longer if required by law. The City's representatives may (without limitation) conduct verifications such as verifying information and amounts through interviews and written confirmations with Consultant's employees, field and agency labor, subcontractors, and vendors.

5.9.1 Consultant's "records" as referred to in this Agreement shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may

in the City's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by this Agreement. Such records shall include (hard copy, as well as computer readable data if it can be made available), written policies and procedures; time sheets; payroll registers; payroll records; cancelled payroll checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, negotiation notes, etc.); original bid estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; invoices and related payment documentation; general ledger, and any other Consultant records which may have a bearing on matters of interest to the City in connection with the Consultant's dealings with the City.

5.9.2 Consultant shall require all payees (examples of payees include subcontractors, material suppliers, insurance carriers, etc.) to comply with the provisions of this article by ensuring that the City's right to audit requirements set forth herein are contained in a written contract between Consultant and payee. Consultant will ensure that the City has the same right to audit all payees that it has to audit Consultant under the terms of this Agreement.

5.9.3 City's authorized representative or designee shall have reasonable access to the Consultant's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement, in order to conduct audits in compliance with this article.

VI. OWNERSHIP AND RETENTION OF DOCUMENTS

6.1 Any and all documents, papers, records, writings, data, media or information in whatever form and character created by Consultant pursuant to the provisions of this Agreement and pertinent to the services rendered hereunder, (hereinafter "Documents") shall be the exclusive property of City; and such Documents shall not be the subject of any copyright or proprietary claim by Consultant. Consultant understands and acknowledges that as the exclusive owner of any and all Documents, City has the right to use all Documents as City desires, without restriction and that City will be providing reports developed pursuant to this Agreement to the FAA.

6.2 Consultant agrees and covenants to protect any and all proprietary rights of City in any materials provided to Consultant. Such protection of proprietary rights by Consultant shall include, but not be limited to, the inclusion in any copy intended for publication of copyright mark reserving all rights to City. Additionally, any materials provided to Consultant by City shall not be released to any third party without the consent of City and shall be returned intact to City upon termination or completion of this Agreement or if instructed to do so by the Director.

6.3 Consultant hereby assigns to City all statutory and common law copyrights to any copyrightable work that, in part or in whole, was produced from this Agreement, including all equitable rights. No reports, maps, documents or other copyrightable works, produced in whole or in part by this Agreement, shall be subject of an application for copyright by Consultant. All reports, maps, project logos, drawings or other copyrightable work produced under this Agreement shall become the property of City (excluding any instrument of services, unless otherwise specified herein). Consultant shall, at its own expense, defend all suits or proceedings instituted against City and pay any award of damages or loss resulting from an injunction against City, insofar as the same are based on any claim that materials or work provided under this Agreement constitute an infringement of any patent, trade secret, trademark, copyright or other intellectual property rights.

6.4 All of the Consultant's documentary work product reports and correspondence to City under this Agreement shall be the property of the City and, upon completion of this Agreement; such documentary

work product shall be promptly delivered to City in a reasonably organized form, without restriction on its future use by City. The above notwithstanding, the Consultant shall retain all rights previously held in any standard drawing details, designs, specifications, databases, computer software and any other proprietary information it may provide pursuant to this Agreement, whether or not such proprietary information was modified during the course of providing the services hereunder. The Consultant may retain for its files any copies of documents it chooses to retain and may use Consultant's work product as it deems fit. Any materially significant work product lost or destroyed by the Consultant shall be replaced or reproduced at the Consultant's non-reimbursable, sole cost.

6.5 Upon completion or termination of the Project, or upon request by the City, all documents and information, in whatever form, given to, prepared or assembled by the Consultant in connection with its performance of its duties under this Agreement shall become the sole property of the City and shall be delivered at no cost to the City without restriction on future use. The City shall have free and immediate access to all such information at all times during the term of this Agreement with the right to make and retain copies documents, notes and data, whether or not the Project has been completed. Prior to surrender of the documents and information, Consultant may make copies of any and all documents for its files, at its sole cost and expense.

6.6 The Consultant agrees to maintain all books, records and reports required under this Agreement for a period of not less than four (4) years after final payment is made and all pending matters are closed. In addition, the Consultant shall maintain an acceptable cost accounting system during the term of this Agreement. The Consultant agrees to provide the City, the Federal Aviation Administration and the Comptroller General of the United States, or any of their duly authorized representatives, access to any books, documents, papers and records of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

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

VII. TERMINATION OF AGREEMENT

7.1 Termination Without Cause.

7.1.1 This Agreement may be terminated by City without cause, prior to Director giving Consultant written Notice to Proceed, should Director, in his sole discretion, determine that it is not in City's best interest to proceed with this Agreement. Such notice shall be provided in accordance with the notice provisions contained in this Agreement, and shall be effective immediately upon delivery to the Consultant.

7.1.2 This Agreement may be terminated by the City at any time after issuance of the Director's Notice to Proceed, either for the City's convenience or because of Consultant's failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Agreement, whether completed or in progress, delivered to the City.

7.1.3 If the termination is for the convenience of the City, and following inspection and acceptance of Consultant's services properly performed prior to the effective date of termination an equitable adjustment in the contract price shall be made. Consultant shall not, however, be entitled to lost or anticipated profit on unperformed services, should City choose to exercise its option to terminate, nor shall Consultant be entitled to compensation for any unnecessary or

unapproved work, performed during time between the issuance of the City's notice of termination and the actual termination date.

7.1.4 If the termination is due to Consultant's failure to fulfill its obligations, the City may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Consultant shall be liable to the City for any additional cost occasioned to the City thereby.

7.1.5 If, after notice of termination for failure to fulfill contract obligations, it is determined that the Consultant had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, an equitable adjustment in the contract price shall be made as provided in paragraph 7.1.3 of this clause.

7.1.6 The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

7.1.7 This Agreement may be terminated by the Consultant, at any time after issuance of the Director's Notice to Proceed, upon ninety (90) calendar days written notice provided in accordance with the Notice provisions contained in this Agreement.

7.2 Defaults With Opportunity for Cure. Should Consultant fail, as determined by the Director, to satisfactorily perform the duties set out in **Article III**. Scope of Services; or comply with any covenant herein required, such failure shall be considered an Event of Default. In such event, the City shall deliver written notice of said default, in accordance with the notice provisions contained in this Agreement, specifying the specific Events of Default and the action necessary to cure such defaults. Consultant shall have ten (10) calendar days after receipt of the written notice to cure such default. If Consultant fails to cure the default within such cure period, or take steps reasonably calculated to cure such default, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Consultant to complete the work required by this Agreement. City shall also have the right to offset the cost of said new agreement with a new Consultant against Consultant's future or unpaid invoice(s), subject to any statutory or legal duty, if any, on the part of City to mitigate its losses.

7.3 Termination For Cause. Upon the occurrence of one (1) or more of the following events, and following written notice to Consultant given in accordance with the notice provisions contained in this Agreement, City may immediately terminate this Agreement, in whole or in part, "for cause":

7.3.1 Consultant makes, directly or indirectly through its employees or representatives, any material misrepresentation or provides any materially misleading information to City in connection with this Agreement or its performance hereunder; or

7.3.2 Consultant violates or materially fails to perform any covenant, provision, obligation, term or condition of a material nature contained in this Agreement, except those events of default for which an opportunity to cure is provided herein; or

7.3.3 Consultant fails to cure, or initiate steps reasonably calculated to cure, a default listed in Section 9.3 below, within the time period required for cure; or

7.3.4 Consultant violates any rule, regulation or law to which Consultant is bound or shall be bound under the terms of this Agreement; or

7.3.5 Consultant attempts the sale, transfer, pledge, conveyance or assignment of this Agreement contrary to the terms of the Agreement; or

7.3.6 Consultant ceases to do business as a going concern; makes an assignment for the benefit of creditors; admits in writing its inability to pay debts as they become due; files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue) and such petition is not dismissed within forty-five (45) days of filing; or if a receiver, trustee or liquidator is appointed for it, or its joint venture entity, or any substantial part of Consultant's assets or properties.

7.4 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.5 Orderly Transfer Following Termination. Regardless of how this Agreement is terminated, Consultant shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City. Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant, or any of its subcontractors, pursuant to this Agreement. All completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced, or provided to Consultant, in connection with the services rendered by Consultant under this Agreement, regardless of storage medium, shall be transferred to City. Such record transfer shall be completed within thirty (30) calendar days of the termination date and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents.

7.6 Any documents prepared in association with this Agreement shall be delivered to City as a pre-condition to final payment.

7.7 City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty imposed upon the City. Consultant further acknowledges that the failure of Consultant substantially to comply with the submittal of the statements and documents, as required herein, shall constitute a waiver by Consultant of any portion of the fee for which Consultant did not supply such necessary statements and/or documents

7.8 Claims for Outstanding Fees. Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a Waiver by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

VIII. SUSPENSION OF WORK UNDER AGREEMENT

8.1 Right of City to Suspend. City may suspend this Agreement for any reason, with or without cause upon the issuance of written Notice of Suspension in accordance with the Notice provisions contained in this Agreement. Such suspension shall take effect upon the date specified in such notice.

The Notice of Suspension will set out the reason(s) for the suspension and the anticipated duration of the suspension, but will in no way guarantee the total number of days of suspension.

8.2 Consultant's Right to Terminate In Event of Suspension of Agreement. In the event such suspension exceeds one hundred and twenty (120) calendar days, Consultant shall have the right to terminate this Agreement. Consultant may exercise this right to terminate by issuing a written Notice of Termination to the City, delivered in accordance with the Notice provisions contained in this Agreement after the expiration of one hundred and twenty (120) calendar days from the effective date of the suspension. Termination pursuant to this paragraph shall become effective immediately upon receipt of said written notice by City and such termination shall be subject to all the requirements set out in Paragraphs 7.5 and 7.6 above, related to the Orderly Transfer and Fee Payment.

8.3 Procedures Upon Receipt of Notice of Suspension.

8.3.1 Upon receipt of a notice of suspension and prior to the effective date of the suspension, Consultant shall, unless otherwise directed, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement.

8.3.2 Consultant shall prepare a statement showing in detail the services performed under this Agreement prior to the effective date of suspension.

8.3.3 Copies of all completed or partially completed studies, plans and other documents prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to the City but shall be retained by Consultant until such time as Consultant may exercise the right to terminate.

8.3.4 During the period of Suspension, Consultant shall have the option to at any time submit the above referenced statement to the City for payment of any unpaid portion of the prescribed fee for services which have actually been performed to the benefit of the City under this Agreement, adjusted for any previous payments of the fee in question.

8.3.5 In the event Consultant exercises its right to terminate this Agreement at any time after the effective Suspension date, Consultant shall submit, within forty-five (45) calendar days after receipt by City of Consultant's notice of termination (if he has not previously done so) the above referenced statement showing in detail the services performed under this Agreement prior to the effective date of suspension. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a Waiver by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

8.3.6 Any documents prepared in association with this Agreement shall be delivered to City as a pre-condition to final payment.

8.3.7 City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty imposed upon the City. Consultant further acknowledges that the failure of Consultant substantially to comply with the submittal of the statements and documents, as required herein, shall constitute a waiver by Consultant of any portion of the fee for which Consultant did not supply such necessary statements and/or documents

8.3.8 Upon the above conditions being met, the City's review of the submissions and finding the claimed compensation to be appropriate to the terms of this agreement, the City shall pay Consultant that portion of the agreed prescribed fee for those as yet uncompensated services actually performed under this Agreement to the benefit of the City, adjusted for any previous payments of the fee in question.

8.3.9 City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty imposed upon the City. Consultant further acknowledges that the failure of Consultant substantially to comply with the submittal of the statements and documents, as required herein, shall constitute a waiver by Consultant of any portion of the fee for which Consultant did not supply such necessary statements and/or documents

IX. INSURANCE REQUIREMENTS

9.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Aviation Department, which shall be clearly labeled "Airport Financial Management Consultant" in the Description of Operations block of the Certificate. The 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 a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature 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 Aviation Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

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

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

TYPE	AMOUNTS
1. Workers' Compensation* 2. Employers' Liability*	Statutory $500,000/$500,000/$500,000
3. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Damage to property rented by you	For Bodily Injury and Property Damage of $1,000,000 per occurrence; $2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage f. $100,000

4. Business Automobile Liability** a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $1,000,000 per occurrence
5. Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

* If applicable (respondent has employees working on this project)
** If applicable, (respondent uses company-owned vehicles in the course of completion of this project)

9.4 Consultant agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Consultant herein, and provide a certificate of insurance and endorsement that names the Consultant and City as additional insureds. Respondent shall provide City with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

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

City of San Antonio
Attn: Aviation Department– Finance & Administration
9800 Airport Boulevard
San Antonio, Texas 78216

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

9.6.1 Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds 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;

9.6.2 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;

9.6.3 Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.

9.6.4 Provide 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.

9.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant'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.

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

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

9.10 It is agreed that Consultant'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.

9.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided..

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

X. INDEMNIFICATION

10.1 CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, City and the elected officials, employees, officers, directors, volunteers and representatives of City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon City directly or indirectly arising out of, resulting from or related to Consultant's activities under this Agreement, including any acts or omissions of Consultant, any agent, officer, director, representative, employee, consultant or subcontractor of Consultant, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR 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.

10.2 The provisions of this indemnity are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Consultant shall advise City in writing within 24 hours of any claim or demand against City or Consultant known to Consultant related to or arising out of Consultant's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Consultant's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Consultant of any of its obligations under this paragraph.

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

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

10.5 Acceptance of the final report by the City shall not constitute nor be deemed a release of the responsibility and liability of the Consultant, its employees, associates, agents or subcontractors for the accuracy and competency of their reports or other documents and Work; nor shall such acceptance be deemed an assumption of responsibility or liability by the City for any defect in the report or other documents and Work prepared by said Consultant.

XI. CONSULTANT'S LIABILITY AND STANDARD OF CARE

Services provided by Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

XII. CONSULTANT'S WARRANTY UNDER THE PROFESSIONAL SERVICES PROCUREMENT ACT

Consultant warrants that it has not employed or retained any company or person other than a bona fide employee working solely for Consultant to solicit or secure this Agreement, and that it has not, for the purpose of soliciting or securing this Agreement, paid, compensated, or agreed to pay or compensate, any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, for any other consideration contingent upon or resulting from the award or making of this Agreement. For breach of the foregoing warranty, the City shall have the right to terminate the Agreement under the provisions of this Agreement. However, breach of the warranty required in this provision constitutes fraud by operation of law; therefore, any Consultant found in breach of such warranty, by a final judgment of a Court of Competent Jurisdiction, shall take no compensation under this Agreement for any services rendered and such forfeiture shall not bar the City from pursuit and collection of any and all other damages, at law and in equity, to which it may be justly entitled. This Agreement is entered into under competency requirements of the Texas Professional Services Procurement Act governing municipal employment of professional and other professionals. Accordingly, Consultant

further pledges and warrants its best and most competent professional efforts to secure to the City the benefits of the agreement.

XIII. ASSIGNMENT OF RIGHTS OR DUTIES

13.1 By entering into this Agreement, City has approved the use of any subcontractors identified in Consultant's Proposal. No further approval shall be needed for Consultant to use such subcontractors as are identified in Consultant's Proposal.

13.2 Except as otherwise required herein, Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the prior written consent of City. Professional services required by law to be performed by a licensed engineer, or services which, by law, require the supervision and approval of a licensed engineer, may only be subcontracted upon the prior written approval of the San Antonio City Council, by approval and passage of an ordinance therefore. Any other services to be performed under this Agreement may be subcontracted upon the written approval of Director. As a condition of consent, if same is given, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor consultant, assignee, transferee or subcontractor. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by City in accordance with this Article.

13.3 Any attempt to assign, transfer, pledge, convey or otherwise dispose of any part of, or all of its right, title, interest or duties to or under this Agreement, without said written approval, shall be void, and shall confer no rights upon any third person. Should Consultant assign, transfer, convey or otherwise dispose of any part of, or all of its right, title or interest or duties to or under this Agreement, City may, at its option, terminate this Agreement as provided herein, and all rights, titles and interest of Consultant shall thereupon cease and terminate, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to City, which City sustains as a result of such violation.

13.4 Consultant agrees to notify Director of any changes in ownership interest greater than thirty percent (30%), or control of its business entity not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to City under this Agreement, any such change of ownership interest or control of its business entity may be grounds for termination of this Agreement in accordance with **Article VII, Termination.**

XIV. INDEPENDENT CONTRACTOR

14.1 Consultant covenants and agrees that it is an independent contractor and not an officer, agent, servant, or employee of City; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors; that the doctrine of respondeat superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Consultant.

14.2 No Third Party Beneficiaries - For purposes of this Agreement, including its intended operation and effect, the Parties specifically agree and contract that: (1) this Agreement only affects matters/disputes between the Parties to this Agreement, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Consultant or both, or that such third parties may benefit

incidentally by this Agreement; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Consultant.

XV. SMALL BUSINESS ECONOMIC DEVELOPMENT (SBEDA) ADVOCACY PROGRAM

15.1 SBEDA Program. The City has adopted a Small Business Economic Development Advocacy Ordinance (Ordinance No. 2010-06-17-0531 and as amended, also referred to as "SBEDA" or "the SBEDA Program"), which is posted on the City's Economic Development (EDD) website page and is also available in hard copy form upon request to the City. The SBEDA Ordinance Compliance Provisions contained in this section of the Agreement are governed by the terms of this Ordinance, as well as by the terms of the SBEDA Ordinance Policy & Procedure Manual established by the City pursuant to this Ordinance, and any subsequent amendments to this referenced SBEDA Ordinance and SBEDA Policy & Procedure Manual that are effective as of the date of the execution of this Agreement. Unless defined in a contrary manner herein, terms used in this section of the Agreement shall be subject to the same expanded definitions and meanings as given those terms in the SBEDA Ordinance and as further interpreted in the SBEDA Policy & Procedure Manual.

15.2 Definitions

15.2.1 Affirmative Procurement Initiatives (API) – Refers to various Small Business Enterprise, Minority Business Enterprise, and/or Women Business Enterprise ("S/M/WBE") Program tools and Solicitation Incentives that are used to encourage greater Prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals and joint venture incentives. (For full descriptions of these and other S/M/WBE program tools, see Section III. D. of Attachment A to the SBEDA Ordinance.)

15.2.2 Centralized Vendor Registration System (CVR) – a mandatory electronic system wherein the City requires all prospective Consultants and Subcontractors that are ready, willing and able to sell goods or services to the City to register. The CVR system assigns a unique identifier to each registrant that is then required for the purpose of submitting solicitation responses and invoices, and for receiving payments from the City. The CVR-assigned identifiers are also used by the Goal Setting Committee for measuring relative availability and tracking utilization of SBE and M/WBE firms by Industry or commodity codes, and for establishing Annual Aspirational Goals and Contract-by-Contract Subcontracting Goals.

15.2.3 Certification or "Certified" – the process by which the Small Business Office (SBO) staff determines a firm to be a bona-fide small, minority-, women-owned, or emerging small business enterprise. Emerging Small Business Enterprises (ESBEs) are automatically eligible for Certification as SBEs. Any firm may apply for multiple Certifications that cover each and every status category (e.g., SBE, ESBE, MBE, or WBE) for which it is able to satisfy eligibility standards. The SBO staff may contract these services to a regional Certification agency or other entity. For purposes of Certification, the City accepts any firm that is certified by local government entities and other organizations identified herein that have adopted Certification standards and procedures similar to those followed by the SBO, provided the prospective firm satisfies the eligibility requirements set forth in this Ordinance in Section III.E.6 of Attachment A.

15.2.4 Commercially Useful Function – an S/M/WBE firm performs a Commercially Useful Function when it is responsible for execution of a distinct element of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the S/M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an S/M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the S/M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the S/M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an S/M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful S/M/WBE participation, when in similar transactions in which S/M/WBE firms do not participate, there is no such role performed. The use of S/M/WBE firms by Consultant to perform such "pass-through" or "conduit" functions that are not commercially useful shall be viewed by the City as fraudulent if Consultant attempts to obtain credit for such S/M/WBE participation towards the satisfaction of S/M/WBE participation goals or other API participation requirements. As such, under such circumstances where a commercially useful function is not actually performed by the S/M/WBE firm, the Consultant shall not be given credit for the participation of its S/M/WBE subcontractor or joint venture partner towards attainment of S/M/WBE utilization goals, and the Consultant and S/M/WBE firm may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

15.2.5 Evaluation Preference – an API that may be applied by the Goal Setting Committee ("GSC") to Construction, Architectural & Engineering, Professional Services, Other Services, and Goods and Supplies contracts that are to be awarded on a basis that includes factors other than lowest price, and wherein responses that are submitted to the City by S/M/WBE firms may be awarded additional Points in the evaluation process in the scoring and ranking of their proposals against those submitted by other prime Consultants or Consultants.

15.2.6 Good Faith Efforts – documentation of the Consultant's or Consultant's intent to comply with S/M/WBE Program Goals and procedures including, but not limited to, the following: (1) documentation within a solicitation response reflecting the Consultant's commitment to comply with SBE or M/WBE Program Goals as established by the GSC for a particular contract; or (2) documentation of efforts made toward achieving the SBE or M/WBE Program Goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SBE or M/WBE subcontract opportunities on the City of San Antonio website; solicitations of bids/proposals/qualification statements from all qualified SBE or M/WBE firms listed in the Small Business Office's directory of certified SBE or M/WBE firms; correspondence from qualified SBE or M/WBE firms documenting their unavailability to perform SBE or M/WBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to enhance opportunities for SBE or M/WBE firms; documentation of a Prime Contractor's posting of a bond covering the work of SBE or M/WBE Subcontractors; documentation of efforts to assist SBE or M/WBE firms with obtaining financing, bonding or insurance required by the Consultant; and documentation of consultations with trade associations and consultants that represent the interests of SBE and/or M/WBEs in order to identify qualified and available SBE or M/WBE Subcontractors.) The appropriate form and content of Consultant's Good Faith Efforts documentation shall be in accordance with the SBEDA Ordinance as interpreted in the SBEDA Policy & Procedure Manual.

15.2.7 HUBZone Firm – a business that has been certified by U.S. Small Business Administration for participation in the federal HUBZone Program, as established under the 1997 Small Business Reauthorization Act. To qualify as a HUBZone firm, a small business must meet the following criteria: (1) it must be owned and Controlled by U.S. citizens; (2) at least 35 percent of its employees must reside in a HUBZone; and (3) its Principal Place of Business must be located in a HUBZone within the San Antonio Metropolitan Statistical Area. [See 13 C.F.R. 126.200 (1999).]

15.2.8 Independently Owned and Operated – ownership of an SBE firm must be direct, independent and by Individuals only. Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control as specified herein in Section III.E.6. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

15.2.9 Individual – an adult person that is of legal majority age.

15.2.10 Industry Categories – procurement groupings for the City of San Antonio inclusive of Construction, Architectural & Engineering (A&E), Professional Services, Other Services, and Goods & Supplies (i.e., manufacturing, wholesale and retail distribution of commodities). This term may sometimes be referred to as "business categories."

15.2.11 Minority/Women Business Enterprise (M/WBE) – firm that is certified as a Small Business Enterprise and also as either a Minority Business Enterprise or as a Women Business Enterprise, and which is at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members and/or women, and that is ready, willing and able to sell goods or services that are purchased by the City of San Antonio.

15.2.12 M/WBE Directory – a listing of minority- and women-owned businesses that have been certified for participation in the City's M/WBE Program APIs.

15.2.13 Minority Business Enterprise (MBE) – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified a Small Business Enterprise and also as being at least fifty-one percent (51%) owned, managed and controlled by one or more Minority Group Members, and that is ready, willing and able to sell goods or services that are purchased by the City. To qualify as an MBE, the enterprise shall meet the Significant Business Presence requirement as defined herein. Unless otherwise stated, the term "MBE" as used in this Ordinance is not inclusive of women-owned business enterprises (WBEs).

15.2.14 Minority Group Members – African-Americans, Hispanic Americans, Asian Americans and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

15.2.14.1 African-Americans: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indian.

15.2.14.2 Hispanic-Americans: Persons of Mexican, Puerto Rican, Cuban, Spanish or Central and South American origin.

15.2.14.3 Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

15.2.14.4 Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American Tribes, as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

15.2.15 Originating Department – the City department or authorized representative of the City which issues solicitations or for which a solicitation is issued.

15.2.16 Payment – dollars actually paid to Consultants and/or Subcontractors and vendors for City contracted goods and/or services.

15.2.17 Points – the quantitative assignment of value for specific evaluation criteria in the vendor selection process used in some Construction, Architectural & Engineering, Professional Services, and Other Services contracts (e.g., up to 10 points out of a total of 100 points assigned for S/M/WBE participation as stated in response to a Request for Proposals).

15.2.18 Prime Contractor – the vendor or contractor to whom a purchase order or contract is issued by the City of San Antonio for purposes of providing goods or services for the City. For purposes of this agreement, this term refers to the Consultant.

15.2.19 Relevant Marketplace – the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the MGT Studies, and for determining eligibility for participation under various programs established by the SBEDA Ordinance, is defined as the San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

15.2.20 Consultant – a vendor submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by the City. For purposes of this agreement, Consultant is the Consultant.

15.2.21 Responsible – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

15.2.22 Responsive – a firm's submittal (bid, response or proposal) conforms in all material respects to the solicitation (Invitation for Bid, Request for Qualifications, or Request for Proposal) and shall include compliance with S/M/WBE Program requirements.

15.2.23 San Antonio Metropolitan Statistical Area (SAMSA) – also known as the Relevant Marketplace, the geographic market area from which the City's MGT Studies analyzed contract utilization and availability data for disparity (currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson).

15.2.24 SBE Directory - a listing of small businesses that have been certified for participation in the City's SBE Program APIs.

15.2.25 Significant Business Presence – to qualify for this Program, a S/M/WBE must be headquartered or have a significant business presence for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the eight counties that make up the San Antonio Metropolitan Statistical Area (SAMSA), from which 20% of its full-time, part-time and contract employees are regularly based, and from which a substantial role in

the S/M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

15.2.26 Small Business Enterprise (SBE) – a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is Independently Owned and Operated by Individuals legally residing in, or that are citizens of, the United States or its territories, and which meets the U.S. Small Business Administration (SBA) size standard for a small business in its particular industry(ies) and meets the Significant Business Presence requirements as defined herein.

15.2.27 Small Business Office (SBO) – the office within the Economic Development Department (EDD) of the City that is primarily responsible for general oversight and administration of the S/M/WBE Program.

15.2.28 Small Business Office Manager – the Assistant Director of the EDD of the City that is responsible for the management of the SBO and ultimately responsible for oversight, tracking, monitoring, administration, implementation and reporting of the S/M/WBE Program. The SBO Manager is also responsible for enforcement of contractor and vendor compliance with contract participation requirements, and ensuring that overall Program goals and objectives are met.

15.2.29 Small Minority Women Business Enterprise Program (S/M/WBE Program) – the combination of SBE Program and M/WBE Program features contained in the SBEDA Ordinance.

15.2.30 Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor or Consultant in furtherance of the Prime Contractor's performance under a contract or purchase order with the City. A copy of each binding agreement between the Consultant and its subcontractors shall be submitted to the City prior to execution of this contract agreement and any contract modification agreement.

15.2.31 Suspension – the temporary stoppage of the SBE or M/WBE firm's beneficial participation in the City's S/M/WBE Program for a finite period of time due to cumulative contract payments the S/M/WBE firm received during a fiscal year that exceed a certain dollar threshold as set forth in Section III.E.7 of Attachment A to the SBEDA Ordinance, or the temporary stoppage of Consultant's and/or S/M/WBE firm's performance and payment under City contracts due to the City's imposition of Penalties and Sanctions set forth in Section III.E.13 of Attachment A to the SBEDA Ordinance.

15.2.32 Subcontractor/Supplier Utilization Plan – a binding part of this contract agreement which states the Consultant's commitment for the use of Joint Venture Partners and / or Subcontractors/Suppliers in the performance of this contract agreement, and states the name, scope of work, and dollar value of work to be performed by each of Consultant's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the SBO Manager. Additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, of dollar values of work to be performed requires an amendment to this agreement to be approved by the EDD Director or designee.

15.2.33 Women Business Enterprises (WBEs) - any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of the SBEDA Ordinance as being a Small Business Enterprise and that is at least fifty-one percent (51%) owned, managed and Controlled by one or more non-minority women Individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing and able to sell goods or services that are purchased by the City and that meets the Significant Business Presence requirements as defined herein. Unless otherwise stated, the term "WBE" as used in this Agreement is not inclusive of MBEs.

15.3 SBEDA Program Compliance – General Provisions. As Consultant acknowledges that the terms of the City's SBEDA Ordinance, as amended, together with all requirements, guidelines, and procedures set forth in the City's SBEDA Policy & Procedure Manual are in furtherance of the City's efforts at economic inclusion and, moreover, that such terms are part of Consultant's scope of work as referenced in the City's formal solicitation that formed the basis for contract award and subsequent execution of this Agreement, these SBEDA Ordinance requirements, guidelines and procedures are hereby incorporated by reference into this Agreement, and are considered by the Parties to this Agreement to be material terms. Consultant voluntarily agrees to fully comply with these SBEDA program terms as a condition for being awarded this contract by the City. Without limitation, Consultant further agrees to the following terms as part of its contract compliance responsibilities under the SBEDA Program:

15.3.1 Consultant shall cooperate fully with the Small Business Office and other City departments in their data collection and monitoring efforts regarding Consultant's utilization and payment of Subcontractors, S/M/WBE firms, and HUBZone firms, as applicable, for their performance of Commercially Useful Functions on this contract including, but not limited to, the timely submission of completed forms and/or documentation promulgated by SBO, through the Originating Department, pursuant to the SBEDA Policy & Procedure Manual, timely entry of data into monitoring systems, and ensuring the timely compliance of its Subcontractors with this term;

15.3.2 Consultant shall cooperate fully with any City or SBO investigation (and shall also respond truthfully and promptly to any City or SBO inquiry) regarding possible non-compliance with SBEDA requirements on the part of Consultant or its Subcontractors or suppliers;

15.3.3 Consultant shall permit the SBO, upon reasonable notice, to undertake inspections as necessary including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;

15.3.4 Consultant shall immediately notify the SBO, in writing on the Change to Utilization Plan form, through the Originating Department, of any proposed changes to Consultant's Subcontractor / Supplier Utilization Plan for this contract, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by Consultant to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan including, but not limited to, proposed self-performance of work by Consultant of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers, shall be subject to advanced written approval by the Originating Department and the SBO.

15.3.5 Consultant shall immediately notify the Originating Department and SBO of any transfer or assignment of its contract with the City, as well as any transfer or change in its ownership or business structure.

15.3.6 Consultant shall retain all records of its Subcontractor payments for this contract for a minimum of four years or as required by state law, following the conclusion of this contract or, in the event of litigation concerning this contract, for a minimum of four years or as required by state law following the final determination of litigation, whichever is later.

15.3.7 In instances wherein the SBO determines that a Commercially Useful Function is not actually being performed by the applicable S/M/WBE or HUBZone firms listed in a Consultant's Subcontractor / Supplier Utilization Plan, the Consultant shall not be given credit for the participation of its S/M/WBE or HUBZone subcontractor(s) or joint venture partner(s) toward attainment of S/M/WBE or HUBZone firm utilization goals, and the Consultant and its listed S/M/WBE firms or HUBZone firms may be subject to sanctions and penalties in accordance with the SBEDA Ordinance.

15.3.8 Consultant acknowledges that the City will not execute a contract or issue a Notice to Proceed for this project until the Consultant and each of its Subcontractors for this project have registered and/or maintained active status in the City's Centralized Vendor Registration System, and Consultant has represented to City which primary commodity codes each registered Subcontractor will be performing under for this contract.

15.4 SBEDA Program Compliance – Affirmative Procurement Initiatives. The City has applied the following contract-specific Affirmative Procurement Initiatives to this contract. Consultant hereby acknowledges and agrees that the selected API requirement shall also be extended to any change order or subsequent contract modification and, absent SBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement:

15.4.1 SBE Mentor Protégé Program. In accordance with the SBEDA Ordinance, Section III. D. 7. (c), this contract is being awarded pursuant to the SBE Mentor Protégé Program and, if included in the CONTRACTOR'S proposal, CONTRACTOR shall comply with all requirements of the Program in accordance with CONTRACTOR's signed Mentorship Commitment Form.

15.5 Commercial Nondiscrimination Policy Compliance. As a condition of entering into this Agreement, the Consultant represents and warrants that it has complied with throughout the course of this solicitation and contract award process, and will continue to comply with, the City's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of the SBEDA Ordinance. As part of such compliance, Consultant shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or, on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the City's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Consultant's certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the City pursuant to the solicitation for this contract is hereby incorporated into the material terms of this

Agreement. Consultant shall incorporate this clause into each of its Subcontractor and supplier agreements entered into pursuant to City contracts.

15.6 Prompt Payment. Upon execution of this contract by Consultant, Consultant shall be required to submit to City accurate progress payment information with each invoice regarding each of its Subcontractors, including HUBZone Subcontractors, to ensure that the Consultant's reported subcontract participation is accurate. Consultant shall pay its Subcontractors in compliance with Chapter 2251, Texas Government Code (the "Prompt Payment Act") within ten days of receipt of payment from City. In the event of Consultant's noncompliance with these prompt payment provisions, no final retainage on the Prime Contract shall be released to Consultant, and no new City contracts shall be issued to the Consultant until the City's audit of previous subcontract payments is complete and payments are verified to be in accordance with the specifications of the contract.

15.7 Violations, Sanctions and Penalties.

15.7.1 In addition to the above terms, Consultant acknowledges and agrees that it is a violation of the SBEDA Ordinance and a material breach of this Agreement to:

15.7.1.1Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE, HUBZone firm, Emerging M/WBE, or ESBE for purposes of benefitting from the SBEDA Ordinance;

15.7.1.2Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the SBEDA Ordinance;

15.7.1.3Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE or HUBZone firm;

15.7.1.4Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the SBEDA Ordinance; and

15.7.1.5Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the SBEDA Ordinance.

15.7.2 Any person who violates the provisions of this section shall be subject to the provisions of Section III. E. 13. of the SBEDA Ordinance and any other penalties, sanctions and remedies available under law including, but not limited to:

15.7.2.1Suspension of contract;

15.7.2.2Withholding of funds;

15.7.2.3Rescission of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;

15.7.2.4Refusal to accept a response or proposal; and

15.7.2.5Disqualification of Consultant or other business firm from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

XVI. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION

As a party to a contract with City, Consultant understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

XVII. AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement shall be effected by amendment, in writing, executed by City and Consultant. The Director shall have the authority to execute amendments that require up to $25,000.00 in increased cost on behalf of the City without further action by the San Antonio City Council, subject to appropriation of funds for the increase in cost. Any other change will require approval of the City Council by passage of an ordinance therefore.

XVIII. NOTICES

Unless otherwise expressly provided elsewhere in this Agreement, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or on receipt after mailing the same by certified mail, return receipt request with proper postage prepaid, or three (3) days after mailing the same by first class U.S. mail, postage prepaid (in accordance with the "Mailbox Rule"), or when sent by a national commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier.

If intended for CITY, to:

City of San Antonio
Aviation Department
Attn: Assistant Director of Finance
9800 Airport Boulevard
San Antonio, Texas 78216

If intended for Consultant, to:

Ricondo & Associates, Inc.
Attn: Bonnie A. Ossege, Vice President
105 East Fourth Street, Suite 1700
Cincinnati, Ohio 45202

XIX. CONFLICTS OF INTEREST

19.1 Consultant acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with City or any City agency such as City owned utilities. An officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the

officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

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

XX. AIRPORT SECURITY

20.1 To the extent Consultant will be responsible for work which necessitates entrance to the Air Operations Area or other secure area of the Airport, this Agreement is expressly subject to the airport security requirements of Title 49 of the United States Code, Chapter 449, as amended ("Airport Security Act"), the provisions of which govern airport security and are incorporated by reference, including without limitation the rules and regulations promulgated under it. Consultant is subject to, and further must conduct with respect to its Subcontractors and the respective employees of each, such employment investigations, including criminal history record checks, as the Aviation Director, the TSA or the FAA may deem necessary. Further, in the event of any threat to civil aviation, Consultant must promptly report any information in accordance with those regulations promulgated by the FAA, the TSA and the City. Consultant must, notwithstanding anything contained in this Agreement to the contrary, at no additional cost to the City, perform under this Agreement in compliance with those guidelines developed by the City, the TSA and the FAA with the objective of maximum security enhancement.

20.2 Consultant must comply with, and require compliance by its Subcontractors, with all present and future laws, rules, regulations, or ordinances promulgated by the City, the TSA or the FAA, or other governmental agencies to protect the security and integrity of the Airport, and to protect against access by unauthorized persons. Subject to the approval of the TSA, the FAA and the Aviation Director, Consultant must adopt procedures to control and limit access to the Airport Premises utilized by Consultant and its Subcontractors in accordance with all present and future City, TSA and FAA laws, rules, regulations, and ordinances. At all times during the Term, Consultant must have in place and in operation a security program for the Airport Premises utilized by Consultant that complies with all applicable laws and regulations. All employees of Consultant that require regular access to sterile or secure areas of the Airports must be badged in accordance with City and TSA rules and regulations.

20.3 Gates and doors located in and around the Airport Premises utilized by Consultant that permit entry into sterile or secured areas at the Airports, if any, must be kept locked by Consultant at all times when not in use, or under Consultant 's constant security surveillance. Gate or door malfunctions must be reported to the Aviation Director or the Aviation Director's designee without delay and must be kept under constant surveillance by Consultant until the malfunction is remedied.

20.4 In connection with the implementation of its security program, Consultant may receive, gain access to or otherwise obtain certain knowledge and information related to the City's overall Airport security program. Consultant acknowledges that all such knowledge and information is of a highly confidential nature. Consultant covenants that no person will be permitted to gain access to such knowledge and information, unless the person has been approved by the City or the Aviation Director in advance in writing. **Consultant further must indemnify, hold harmless and defend the City and other users of the Airport from and against any and all claims, reasonable costs, reasonable expenses, damages and liabilities, including all reasonable attorney's fees and costs, resulting directly or indirectly from the breach of Licensee's covenants and agreements as set forth in this section.**

XXI. CONTRACT CONSTRUCTION

All parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

XXII. FAMILIARITY WITH LAW AND CONTRACT TERMS

Consultant represents that, prior to signing this Agreement; Consultant has become thoroughly acquainted with all matters relating to the performance of this Agreement, all applicable laws, regulations and FAA Advisory Circulars and guidelines, and all of the terms and conditions of this Agreement and will comply therewith.

XXIII. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

XXIV. VENUE

The obligations of the parties to this Agreement shall be performable in San Antonio, Bexar County, Texas, and if legal action, such as civil litigation, is necessary in connection therewith, exclusive venue shall lie in Bexar County, Texas.

XXV. SEVERABILITY

In the event any one or more paragraphs or portions of this Agreement are held invalid or unenforceable, such shall not affect, impair or invalidate the remaining portions of this Agreement, but such shall be confined to the specific section, sentences, clauses or portions of this Agreement held invalid or unenforceable.

XXVI. FORCE MAJEURE

In the event that performance by either party of any of its' obligations or undertakings hereunder shall be interrupted or delayed by any occurrence and not occasioned by the conduct of either party hereto, whether such occurrence be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not party or privy hereto, then such party shall be excused from performance for a period of time as is reasonably necessary after such occurrence to remedy the effects thereof, and each party shall bear the cost of any expense it may incur due to the occurrence.

XXVII. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Agreement, their assigns.

XXVIII. NON-WAIVER OF PERFORMANCE

28.1 A waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the San Antonio City Council.

28.2 No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XXIX. PARAGRAPH HEADINGS

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXX. LEGAL AUTHORITY

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

XXXI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

31.1 By execution of this Agreement, the undersigned authorized representative of Consultant certifies, and the City relies thereon, that neither Consultant., nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department;

31.2 "Principals", for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

31.3 Consultant shall provide immediate written notice to City, in accordance the notice provisions of this Agreement, if, at any time during the term of this Agreement, including any renewals hereof, Consultant learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances.

31.4 Consultant's certification is a material representation of fact upon which the City has relied in entering into this Agreement. Should City determine, at any time during this Agreement, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, the City may terminate this Agreement in accordance the terms of this Agreement.

XXXII. ENTIRE AGREEMENT

32.1 This Agreement, together with its authorizing ordinance, Exhibits and Attachments, embodies the complete Agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written consent of the parties and approved by ordinance passed by the San Antonio City Council.

32.2 It is understood and agreed by the Parties hereto that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

EXECUTED ON THIS, THE _____ DAY OF _____, 2015.

CITY OF SAN ANTONIO, TEXAS

_____

Sheryl Sculley
City Manager

RICONDO & ASSOCIATES, INC.

By: _____

Bonnie A. Ossege
Vice President

Federal Tax ID#: 36-3663903

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

By: _____

City Attorney

EXHIBIT 1

SCOPE OF SERVICES

Consultant shall perform and provide the following services as needed
:

1. Prepare or provide support for the development of airport financial and business related reports, analyses and forecasts including but not limited to:
    a. Airport financial models to project cash flows, bond sizing and debt service, debt service coverage, rates and charges impacts, and financial planning scenarios, capital project financing strategies ("pro formas")
    b. Profit and loss reports for parking and other SAAS undertakings
    c. Airport industry-related regulatory compliance and/or litigation support
    d. Other airport financial and/or business-related ad hoc reports, presentations, analyses and forecasts as requested
    e. Identifying airport industry trends including data collection to support changing trends

2. Development of airline rates and charges analyses and support (modeling, methodologies and optimization) including, but not limited to:
    a. Analyses of airlines' rates and charges
    b. Industry standards and practices related to airline rates and charges
    c. Preparation and support for the annual airlines' rates and charges (budget, review and true-up)
    d. Production of airline rates and charges documents or presentations for review, meetings and distribution

3. Provide air traffic reports, analyses and forecasts for aviation and the industry including, but not limited to:
    a. Historic air traffic reports
    b. Forecasting air traffic
    c. Analyses of air traffic trends
    d. Other air traffic ad hoc reports, presentations, analyses and forecasts as requested.

4. Perform or provide support for airport bond feasibility services and debt service analyses including, but not limited to:
    a. Report of the airport consultant
    b. Debt service analysis
    c. Sensitivity analysis
    d. Due diligence and continuing disclosure
    e. Working group participation
    f. Other bond offering documents, ad hoc reports, presentations, and analyses and forecasting as requested.

5. Provide Passenger Facility Charge (PFC), Airport Improvement Program (AIP) and Customer Facility Charge (CFC) support, analyses and forecasting including, but not limited to:
    a. Preparation of documents for PFC, AIP and CFC applications, amendments, and other reporting
    b. Analyses of PFC, AIP and CFC Program(s)
    c. Aviation regulatory reporting and documentation
    d. Presentation support related to the PFC, AIP, and CFC program(s) for airports
    e. AIP innovative financing project proposals and grants

6. Provide services to plan/negotiate and/or bid and assist with documents between SAT and airline and non-airline tenants.

7. General airport financial advisory service assistance in the preparation and presentation of materials and report(s) for meetings, strategy sessions and negotiations related to airport management, including financial management, strategic planning

8. Provide analysis of the financial implications of airport development alternatives.

9. Additional airport consulting and financial services, as requested by the Director

EXHIBIT 2

FEE SCHEDULE

Labor Rates

NAME	FIRM	TITLE	HOURLY RATE
Bonnie A. Ossege	R&A	Vice President	$295
Michael G. Moroney	MGM	Principal	$175
Robin J. Brinkman	R&A	Managing Consultant	$210
James E. Branda	R&A	Vice President	$295
Ethan R. Dunkle	R&A	Senior Consultant	$165
Kreg A. Helgoth	R&A	Managing Consultant	$210
M. Allen Hoffman	R&A	Vice President	$295
Max K. Kiesling	R&A	Vice President	$295
Malcolm H. Klein	R&A	Director	$245
Mark R. Richter	R&A	Director	$245
Jeffrey W. Stanley	R&A	Director	$245
Chad Townsend	R&A	Director	$245
Rawley J. Vaughan	R&A	Managing Consultant	$210
Holland A. Young	R&A	Vice President	$295
TBD	R&A	SubConsultant/Technical Specialist*	$130
TBD	R&A	Technical Specialist/Support*	$110

Escalation of Labor Rates

Labor rates may be increased on an annual basis beginning twelve months after the effective date of this Agreement at a rate of three percent (3%) per year

Reimbursable Expenses

Expenses will be reimbursable in accordance with the Aviation Department Consultant and Contractor Reimbursable Expense Policy.

EXHIBIT 3

Consultant
And
Contractor
Reimbursable Expense Policy

SAN ANTONIO
AIRPORT SYSTEM

City of San Antonio

As of 02/23/12

Reimbursable Expense Policy
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Consultant & Contractor Reimbursable Expense Policy

1. GENERAL

1.1 Introduction

This Consultant & Contractor Reimbursable Expense Policy (the "Policy") contains the guidelines for reimbursement of reasonable expenses incurred by Contractors and contractors (both of which shall hereinafter be referred to as "Contractor") in work performed pursuant to an agreement with the City of San Antonio (hereinafter the "City").

1.2 Scope

The policy and procedures contained herein apply to all Contractors in work performed in furtherance to an agreement with the City.

This policy also pertains to all reimbursable expenses by sub-consultants or subcontractors. The Contractor shall be responsible for ensuring that all subcontractor or sub-consultants adhere to this Policy.

The Contractor is responsible for becoming familiar with and adhering to the Policy as applicable for each reimbursable expense submitted.

1.3 Policy

Official reimbursable expenses shall be properly authorized, processed, conducted, reported, and reimbursed in accordance with this Policy. Contractor is expected to exercise good judgment in the type and amount of expense incurred.

For travel expenses, Contractor is expected to plan in advance of the departure date to obtain lowest cost fares, rates and accommodations. In addition, Contractor is encouraged to use all practical means, including internet discounters, to obtain the lowest cost fares, rates, and accommodations.

1.4 Definitions

The following definitions apply to this Policy:

Actual and Reasonable Expenses – The specific, itemized expenses incurred, based on original receipts up to the amount judged by the Aviation Director as justifiable under the circumstances.

Official Travel Time – For the purposes of computing per diem allowances, official travel starts at the day and time the Contractor employee leaves their home, office, or other authorized point and ends on the day and time the Contractor employee returns home, to the office, or other authorized point. This definition is for computing per diem allowances only and may not be used for billing chargeable Contractor employee hours.

Travel Expenses – Includes meals, lodging, transportation and incidental expenses incurred for assignments within 30 consecutive calendar days at the same project site. The Contractor employee's return home for the weekends does not break the continuity of the assignment.

Extended Travel Expenses - Includes meals, lodging, transportation and incidental expenses incurred for assignments 30 or more consecutive calendar days at the same project site. The Contractor employee's return home for the weekends does not break the continuity of the assignment.

Reimbursable expenses – those expenses incurred in the furtherance of a project or assignment pursuant to an executed contract or agreement with the City.

Common Carrier Terminal – a terminal facility for the general public, such as an airport, train station, subway station or bus station.

1.5 Reimbursements

Expenses incurred by the Contractor while engaged in activities outside the scope of the Contractor Agreement or in violation of this Policy will be denied. This includes, but is not limited to, expenses incurred:

- Prior to the execution of the Agreement;
- After the expiration of the Agreement;
- At a location not included authorized by the Agreement;
- At a cost in excess of those costs allowed within the Agreement and/or within this Policy.
- In connection with work performed for customers of Contractor other than the City.

Only those expenses which are ordinary and necessary, and within the contracted for budget, to accomplish the contracted work are eligible for reimbursement.

Entertainment expenses, including alcohol, are not reimbursable.

1.6 Interrupted Itinerary

If official business travel is interrupted for personal convenience, any resulting expense shall not be the responsibility of the City.

2. Transportation Expenses

2.1 Guideline

Contractor must utilize the most economical mode of transportation and the most direct route consistent with the business purpose of the trip.

2.2 Air Travel

Lowest Available Airfare

Airfare reimbursement shall not exceed the lowest practical, available cost of competing airfare. Contractor shall, whenever practicable, make reservations two or more weeks in advance of travel. When all considerations are equal (e.g. travel time dates, times, destination, and work

impacted by travel), Contractor must choose the lowest fare available at that time, regardless of personal preferences for air carrier.

Use of Business or First Class
No reimbursement will be made for Business or First Class travel without advance written approval from the Aviation Director (or designee). (Note: Business or First Class accommodations obtained through use of frequent flyer programs or at Contractor's expense will not require advance approval. However, Contractor must be able to provide the lowest available price of coach fair in order to be reimbursed for that portion of the expense.)

Extended Travel to Save Costs
The additional expenses associated with travel that includes an extended stay (e.g. Saturday night stay) may be reimbursed when the overall savings is at least $150 compared to the cost if the Contractor had not extended the trip.

In determining if an extended stay will result in any cost savings, Contractor must consider the additional expenses associated with an extended stay. Such expenses shall include, but are not limited to, the additional cost of lodging, rental car, meals and parking.

2.3 Travel by Private Automobile

Reimbursement for Travel by Private Automobile
Travel by private automobile will only be reimbursed if such travel is for a valid business purpose. When a private automobile is used, actual mileage will be reimbursed at the most current rate allowable by the Internal Revenue Service. The number of miles driven must be documented by the Contractor. No additional reimbursement is made for expenses related to the use of the automobile. Routine repairs, cleaning, detailing, tires, gasoline, or other automobile expense items will not be reimbursed for privately owned automobiles.

When two or more persons share a privately owned automobile, only the driver may claim the reimbursement for mileage. Two or more persons traveling to the same destination, for the same purpose, and same or approximately the same time span on the same day or days shall be expected to share a privately owned automobile whenever possible.

Charges for parking and toll roads are allowed; however receipts must be provided.

Reimbursement for Travel by Private Automobile in Lieu of Air Travel
When a private automobile is used instead of available air travel for the personal convenience of the Contractor, reimbursement of transportation costs by private automobile shall not exceed the documented amount of airfare Contractor would have paid had the Contractor traveled by air.

Reimbursement for Travel To or From a Common Carrier Terminal
When a Contractor drives a privately owned automobile to or from a common carrier terminal, the mileage and tolls for one round trip, plus parking for the duration of the trip may be claimed for reimbursement. Documented miles driven and receipts must be provided. Contractor is expected to use the lowest, reasonable cost parking option available.

2.4 Travel by Private Aircraft

When a private aircraft is used instead of available commercial air travel for the personal convenience of the Contractor, the reimbursement of transportation costs by private aircraft shall be reimbursed at a rate of 99.5 cents per mile up to the amount that would have been incurred by all Contractor employee travelers using common carrier transportation air fares. Documented aircraft landing and tie-down fees paid, if any, will be reimbursed separately, however, receipts must be provided.

Example:
Two Contractor Employee travelers in the same privately rented aircraft, traveling 500 miles to San Antonio. The common carrier transportation air fares round trip would have been $250 per person. Total mileage of private aircraft would be 1,000 miles (500 miles each way) times 99.5 cents per mile for a total expense of $995 for the private aircraft. The total reimbursable cost for the Contractor would be limited to $500 (2 contractor employees times $250 each), plus any documented aircraft landing and tie-down fees paid.

2.5 Rental Cars

Rental cars may be used for transportation to or from a common carrier terminal. Rental cars may also be used upon arrival at the official business destination when the use of public transportation or other transportation such as taxis is not practical when considering the cost, number of miles to be traveled and other factors. Only commercial agencies may be used. Contractors are strongly encouraged to request the lowest available rate when making rental car reservations.

Reimbursement
Reimbursement is limited to standard size sedan or vehicle commensurate with the requirements of the trip. The cost of the rental car and gasoline will be reimbursed. Documented miles driven and receipts must be provided. There is no reimbursement for mileage for a rental car.

The car must be turned in promptly. Daily charges, outside Official Travel Time, will not be reimbursed.

When a rental car is used on a non-exclusive basis for the City, reimbursement of the rental car and gasoline cost must be pro-rata based on mileage on City projects versus the total mileage.

Insurance
The Contractor assumes all risks and expenses associated with obtaining insurance deemed necessary when using a rental car. Car rental insurance, including collision damage waivers, is not reimbursable.

2.6 Ground Transportation

The following guidelines apply to ground transportation to or from a common carrier terminal at the business destination.

Taxis
The cost of the taxi ride plus a reasonable gratuity will be reimbursed. A reasonable gratuity may not exceed 10% of the total fare. Receipts must be provided.

Airport Shuttle Service
The cost of the airport shuttle ride plus gratuity will be reimbursed. Receipts must be provided.

Local Buses and Subways
Local bus and subway fares are reimbursable; however, receipts are not required.

3. Living Expenses

3.1 Lodging

Lodging expenses for travel within the Continental United States (CONUS) are reimbursed at the lesser of actual cost or the maximum rate established in the U. S. General Services Administration (GSA) Federal Travel Regulation Domestic Per Diem Rates. Lodging taxes, although not included in the GSA per diem rate for lodging, are reimbursable. Contractors are strongly encouraged to request the lowest available rate when making the lodging reservations.

Hotel bills must show the hotel name and locations, dates room was occupied and the rate per day. Other items appearing on the hotel bill should be identified as to the business reason for the charges.

Contractor will not be reimbursed for the following expenses appearing on the hotel bill:

- Alcohol (alone or part of meal)
- Entertainment
- Personal services
- Laundry/Dry cleaning if travel is less than five days

When accommodations are shared with other than an official Contractor employee, reimbursement is limited to the cost that would have been incurred had the Contractor been traveling alone.

3.2 Non-Commercial Lodging
Contractor lodging in non-commercial facilities such as house trailers or field camping are reimbursed actual expenses up to the maximum applicable GSA lodging rate. No reimbursement is provided for housing as a guest in a private home.

3.3 Meals Expense
Meals expenses for travel are reimbursed at actual cost, up to the maximum rate established in the U. S. General Services Administration (GSA) Federal Travel Regulation Domestic or International Per Diem Rates.

Meal expenses for the first and last day of travel are reimbursed at the lower of actual costs or the pro-rated GSA per diem rate listed below:

Beginning of "Official Travel Time" Date of Departure		Ending of "Official Travel Time" Date of Departure	
Prior to 11:00 am	100% per diem	Prior to 11:00 am	33% per diem
11:01 am to 5:00 pm	66% per diem	11:01 am to 5:00 pm	66% per diem
After 5:00 pm	33% per diem	After 5:00 pm	100% per diem

For travel of more than 12 hours but less than 24 hours; meals are reimbursed at the pro-rated GSA per diem rates defined above.

Daily expenses incurred within the vicinity of the Contractor employee's primary work site shall not be reimbursed.

3.4 Incidental Expenses

Payments for tolls, parking charges, cab fares can be reimbursed with proper documentation. Reasonable laundry and dry cleaning expenses will be allowed if travel is over a period of 5 consecutive days. Additionally, reasonable gratuities may be reimbursed if itemized.

Expenses for entertainment and personal convenience items such as alcohol, in-room movies, reading materials and clothing are not reimbursable.

3.5 Daily Allowance and Lodging Allowance for Extended Travel

Travel during which a Contractor remaining at one work location for 30 days or more in any calendar year months shall be considered an extended travel assignment. The 30 days begins on the first day at the work location. The Contractor's return home for weekends does not break the continuity of an extended travel assignment.

The maximum reimbursable rate for extended travel assignments will be the lesser of actual costs of lodging (housekeeping, utilities and furniture rental), meals, and incidentals (as previously outlined above) **or** 60% of the maximum rate established in the U. S. General Services Administration (GSA) Federal Travel Regulation Domestic Per Diem Rates and the U.S. Department of State Foreign Per Diem Rates in U.S. Dollars.

All extended travel must be approved in advance by the Aviation Director or designee prior to Contractor committing to any extended lodging arrangement.

4. Relocation Assistance

4.1 Requirements

Relocation assistance is generally not provided to Contractors. However, in rare Aviation Department agreements, relocation of key personnel may be allowed for long term capital projects. The expenses related to the Contractor employee relocation must be budgeted in

advance at the time the agreement is signed. Additionally, all requests must be approved by the Aviation Director in advance of offering any relocation assistance to a Contractor employee. The request must include a justification why this position could not be filled by hiring an employee locally and why the assistance is needed. Evidence will be required demonstrating the efforts made to hire the employee locally. Any relocation assistance will be limited based on the type of employee as explained below.

4.2 Limitations

Relocation assistance will only be considered when a Contractor employee is required to change his/her place of residence more than 50 miles because of work location and the employee's duties are deemed in the best interest of the Aviation Department agreement requirements. Once the relocation assistance is approved, the employee shall receive reimbursement for the lesser of the actual documented necessary and reasonable relocation expenses or the maximum allowable assistance based on type of employee as defined below:

Relocation Assistance Limitations

Personnel Type	*The lower of:*	
Key Position	Actual Allowable Expenses	$10,000 max
Professional Positions	Actual Allowable Expenses	$5,000 max

~~4.3 Allowable Expenses In General~~

Relocation assistance will only be paid for reasonable expenses of moving household goods and ~~personal effects (including storage expenses), and travel expenses to a new residence. The cost of traveling will only include the shortest and direct route available by conventional~~ transportation. Any expenses incurred for additional overnight stays or side trips for sightseeing purposes will not be reimbursed.

4.4 Travel Expenses by Car

~~Use of personal vehicle to relocate the household goods and personal effects will be reimbursed at the lesser of:~~

- Actual expenses for gas and oil for the personal vehicle, if accurate records are maintained for these expenses, **or**
- The standard mileage reimbursement rate for moving expenses, as the Internal Revenue Service regulations.

In either method, parking fees and tolls paid as a part of the relocation will be reimbursed. Reimbursement will not be allowed for general repairs, general maintenance, insurance, or depreciation on the vehicle.

4.5 Household Goods and Personal Effect Expenses

Relocation assistance will be allowed for the cost of packing, crating, and transporting household goods and personal effects. Reimbursement will also be allowed for costs of connecting or disconnecting utilities required because of moving the household goods, appliances, or personal effects.

4.6 Storage Expenses

Relocation assistance will be allowed for reasonable costs of storing and insuring household goods and personal effects within any period of 30 consecutive days after the day the household goods and personal effects are moved from the former home and before their delivery to the new home.

4.7 Travel Expenses

Relocation assistance will be allowed for reasonable costs of transportation and lodging for the Contractor employee and members of their household while traveling from their former home to their new home. This will include reasonable lodging expenses that do not exceed one day in the area of the former home.

4.8 Non-reimbursable Relocation Expenses

Relocation assistance will not extend to the following types of expenses:

- Any part of the purchase price of the new home.
- Expenses of buying or selling a home (including closing costs, mortgage fees, and points).
- Expenses of entering into or breaking a lease.
- Home improvements to help sell the former residence.
- Loss on the sale of the former residence.
- Mortgage penalties.
- Real estate taxes.
- Refitting of carpet and/or draperies.
- Return trips to former residence.
- Security deposits of any kind.
- Storage charges except as defined above.
- Registration fees for automobile license plates, tags, etc.
- Fees associated with acquiring a Texas driver's license.

4.9 Relocation Assistance Recovery

If the City of San Antonio has paid for relocation assistance to a Contractor's employee and the employee leaves the Contractor's employment before six (6) months of relocation, the City will be entitled to recovery the full amount of the relocation assistance paid from Contractor.

5. Miscellaneous Expenses

5.1 General

Miscellaneous expenses that are ordinary and necessary to accomplish the official business purpose of the trip are reimbursable. Receipts are required for all miscellaneous expenses. The most common of these expenses are as follows:

- Use of computers, printers, faxing machines, and scanners.
- Postage and delivery.
- Office supplies specific to the project.

Expenses that will not be reimbursed will be items for personal use or items that do not have a direct business reason or benefit to the project. Examples of these expenses are:

- Business gifts.
- Snacks or other entertainment items for staff meetings and/or meetings with sub-Contractors.
- Mileage expense for purchase of items where the direct project related item purchased was not the sole reason for the trip.
- Carrying cases for cell phones or computers.
- Items that could be used on more than one project.

5.2 Telephone Calls

Telephone charges should be made per a calling plan with reasonable calling rates. If City, in its sole determination, finds that a calling plan is unreasonable, City may reimburse Contractor at a rate that City determines to be reasonable. Claims for phone call require a statement of the date, person called, phone number, and business reason for the call.

Personal phone calls are not reimbursable.

5.3 Local Business Meetings

Costs associated with local business meetings must be reasonable and have a direct business reason for the City of San Antonio. Local business meeting exceeding $150 must be approved in advance of the scheduled meeting. As stated in previous sections, entertainment is not reimbursable. If alcohol is served at the business meeting this will deem the event as a social event and the entire event will not be reimbursable.

Meals served at an approved business meeting event will be reimbursed at the lesser of the actual cost or the daily per diem rate as specified by GSA for that particular meal. The GSA has established per diem meal rates by breakfast, lunch and dinner. Facility charges associated with this event must be reasonable and approved in advance.

6. Travel Expense Settlement

6.1 Reimbursement

A travel expense statement must be prepared and submitted with the appropriate supporting documents. At a minimum, the expense statement should be in a legible format consistent with business standards and must contain the following elements:

- Name of Contractor being reimbursed.
- Name of Contractor employee that incurred the expenses.
- Dates covered in the expense report.
- Business reason for incurring expenses on behalf of City.
- Legible format and consistent with business standards.

All required receipts must be legible and submitted with the expense statement. If required receipts cannot be obtained or have been lost a statement providing the reason for the

unavailability or loss should be noted. In the absence of a satisfactory explanation, the amount involved will not be reimbursed.

Because lodging receipts may include non-reimbursable charges, lodging will not be reimbursed without a copy of the receipt or facsimile document containing itemized charges for the room, e.g., taxes, telephone, etc. from the hotel.

Expenses should be itemized chronologically according to the nature and type of travel expense (i.e. airfare, hotel, meals, etc.). The completed and supported travel expense statement should be submitted in the first billing cycle following the incurrence of the expense.

6.2 Right to Audit

The City reserves the right to audit actual expenses. Expenses will be reimbursed in accordance with the procedures setout herein at actual cost within the limits and requirements established by this policy or, if applicable, the Agreement.