

AN ORDINANCE 2008-05-01-0339

**AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$7,221,242.00 TO E-Z BELL CONSTRUCTION LTD. AND APPROVING A DEVELOPMENT AGREEMENT WITH THE MEDICAL CENTER ALLIANCE TO DESIGN IMPROVEMENTS AND PURCHASE RIGHT OF WAY, IN CONNECTION WITH THE MEDICAL CENTER INTERSECTION IMPROVEMENTS PHASE IV, PHASE V AND PART I PROJECT, AN AUTHORIZED 2007-2012 BOND PROGRAM AND CERTIFICATE OF OBLIGATION PROJECT LOCATED IN DISTRICT 8, AND APPROPRIATING \$8,458,741.30, OF WHICH \$288,611.04 WILL BE FUNDED BY SAN ANTONIO WATER SYSTEM AND \$68,746.00 WILL BE FUNDED BY CPS ENERGY.**

\* \* \* \* \*

**WHEREAS**, bids were submitted in connection with Medical Center Intersection Improvements, Phase IV, Phase V and Part 1 Project located in Council District 8 as follows:

- Phase IV will add left and right turn lanes at Ewing Halsell and Wurzbach Road intersection as well as include curb and sidewalk replacement, right turn channelizing islands and traffic signals that conform with the signalization system at the Medical Center;
- Phase V will place a roundabout at the intersection of Ewing Halsell and Sid Katz with new curb and sidewalks;
- Part 1 focuses on the intersection of Floyd Curl and Charles Katz which will be completely reconstructed to add left and right turn lanes, new curb, sidewalks, right turn channelizing islands and traffic signals that are consistent with the signalization system at the Medical Center; and

**WHEREAS**, this Ordinance accepts the lowest responsive bid submitted by **E-Z Bel Construction, Ltd.** in the amount of \$7,221,242.00 and authorizes \$686,388.50 for Project Contingency, \$411,833.10 for Capital Administrative Charges, \$137,277.70 for Material Testing, and \$2,000.00 for Advertising Expenses; and

**WHEREAS**, this Ordinance will also authorize the City to enter into a Development Agreement with the Medical Center Alliance; and

**WHEREAS**, the San Antonio Water Systems will fund \$288,611.04 and CPS Energy will fund \$68,746.00 for relocation and/or replacement of their facilities associated with this Project; and

**WHEREAS**, approval of this Ordinance will be a continuation of Council policy to complete these 2007-2012 Bond and Certificates of Obligation Projects; **NOW THEREFORE**,

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

**SECTION 1.** The lowest responsive bid of **E-Z Bel Construction, Ltd.** in the amount of \$7,221,242.00 in connection with the Medical Center Intersection Improvements, Phase IV, Phase

V and Part 1 Project is hereby accepted. All other bids will be considered rejected upon the execution of a contract by the successful bidder and the deposit of all required bonds and insurance certificates or the expiration of ninety (90) days from the effective date hereof, whichever occurs first.

**SECTION 2.** The City Manager or her designee is hereby authorized to execute a standard form construction contract with E-Z Bel Construction, Ltd.

**SECTION 3.** The City Manager or her designee is hereby authorized to execute a Development Agreement between the City of San Antonio and Medical Center Alliance a copy of which is in the form substantially affixed hereto as **Attachment I**.

**SECTION 4.** The following financial adjustments are hereby approved:

- a) Funds are authorized to be received from Medical Center Alliance, to fund 43099000, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, shall be revised by increasing WBS element 23-00218-90-11, entitled Medical Center Alliance Contribution, SAP GL Account 4502280 – Contribution from other Agencies, by the amount of \$700,200.64.
- b) The amount of \$1,100,000.00 is appropriated in SAP Fund 43902027, 2007 CO Streets Improvements, SAP WBS CO-20780-01-01-06, SAP GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00218-90-01. The amount of \$1,100,000.00 is authorized to be transferred to SAP Fund 43099000.
- c) The budget in SAP Fund 43099000, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, shall be revised by increasing SAP WBS element 23-00218-90-01 entitled Trf Fr CO-20780-01-01-06, SAP GL account 6101100 – Interfund Transfer In, by the amount \$1,100,000.00.
- d) The amount of \$737,867.47 is appropriated in SAP Fund 43902003, 2006 C/O Streets Improvements, SAP WBS CO-20060-01-01-04, SAP GL account 6102100 – Interfund Transfer out entitled Transfer to 23-00218-90-06. The amount of \$737,867.47 is authorized to be transferred to SAP Fund 43099000.
- e) The budget in SAP Fund 43099000, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, shall be revised by increasing SAP WBS element 23-00218-90-06 entitled Trf Fr CO-20060-01-01-04, SAP GL account 6101100 – Interfund Transfer In, by the amount \$737,867.47.
- f) Funds are authorized to be received from San Antonio Water System, to fund 45099000, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, shall be revised by increasing WBS element 40-00022-90-06, entitled SAWS Contribution, SAP GL Account 4502280 – Contribution from other Agencies, by the amount of \$288,611.04.
- g) Funds are authorized to be received from City Public Service, to fund 45099000, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, shall be revised by increasing WBS element 40-00022-90-07, entitled CPS Contribution, SAP GL Account 4502280 – Contribution from other Agencies, by the amount of \$ 68,746.00.

- h) The amount of \$2,150,905.18 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, SAP WBS Element 23-00218-05-02-01, entitled City Construction, SAP GL Account 5201140, and is authorized to be encumbered and made payable to **E-Z Bel, LTD.**, for construction service
- i) The amount of \$129,054.31 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, SAP WBS Element 23-00218-05-04, entitled Construction Capital Administration Cost, SAP GL Account 5402010.
- j) The amount of \$215,090.52 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, SAP WBS Element 23-00218-05-06, entitled Project Contingency, SAP GL Account 5201140.
- k) The amount of \$43,018.10 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 23-00218, Medical Center Infrastructure & Facility, SAP WBS Element 23-00218-05-07, entitled Material Testing, SAP GL Account 5201040.
- l) The budget in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, shall be revised by increasing SAP WBS Element 40-00022-05-01 entitled Advertise, SAP GL Account 5201150, by the amount of \$2,000.00.
- m) The budget in SAP Fund 45099000, General Obligation Capital Projects, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, shall be revised by decreasing SAP WBS Element 40-00022-05-06 entitled Project Contingency, SAP GL account 5201140, by the amount of \$2,000.00.
- n) The amount of \$6,550.00 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, SAP WBS Element 40-00022-05-02-02-01, entitled SAWS Sewer, SAP GL Account 5201140 and is authorized to be encumbered and made payable to **E-Z Bel, LTD.**, for construction
- o) The amount of \$282,061.04 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, SAP WBS Element 40-00022-05-02-02-02, entitled SAWS Water, SAP GL Account 5201140 and is authorized to be encumbered and made payable to **E-Z Bel, LTD.**, for construction services.
- p) The amount of \$68,746.00 is appropriated in SAP Fund 43099000, Certificates of Obligation Capital Projects, SAP Project Definition 40-00022, Medical Center Intersection Impr Ph IV-VII, SAP WBS Element 40-00022-05-02-03, entitled CPS GAS, SAP GL Account 5201140 and is authorized to be encumbered and made payable to **E-Z Bel, LTD.**, for construction services.

- q) A contract with E-Z Bel, LTD in the amount of \$ 4,712,979.78 has been authorized for project 40-00022, Medical Center Intersection Impr Ph IV-VII from previously appropriated funding on Ordinance Ord. No. 2008-01-31-0066, dated January 31, 2008.
- r) Payment in the amount of \$4,712,979.78 is authorized and should be encumbered with a purchase order and made payable **E-Z Bel, LTD.**, for Medical Center Intersection Impr Ph IV-VII for intersection improvements.

**SECTION 5.** 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 allocation 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 6.** This Ordinance shall take effect on the tenth day after passage.

**PASSED AND APPROVED** this 1st day of May, 2008.

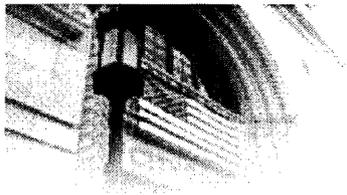
  
M A Y O R  
**PHIL HARDBERGER**

**ATTEST:**

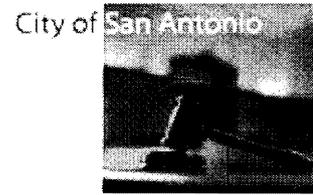
  
City Clerk

**APPROVED AS TO FORM:**

  
City Attorney

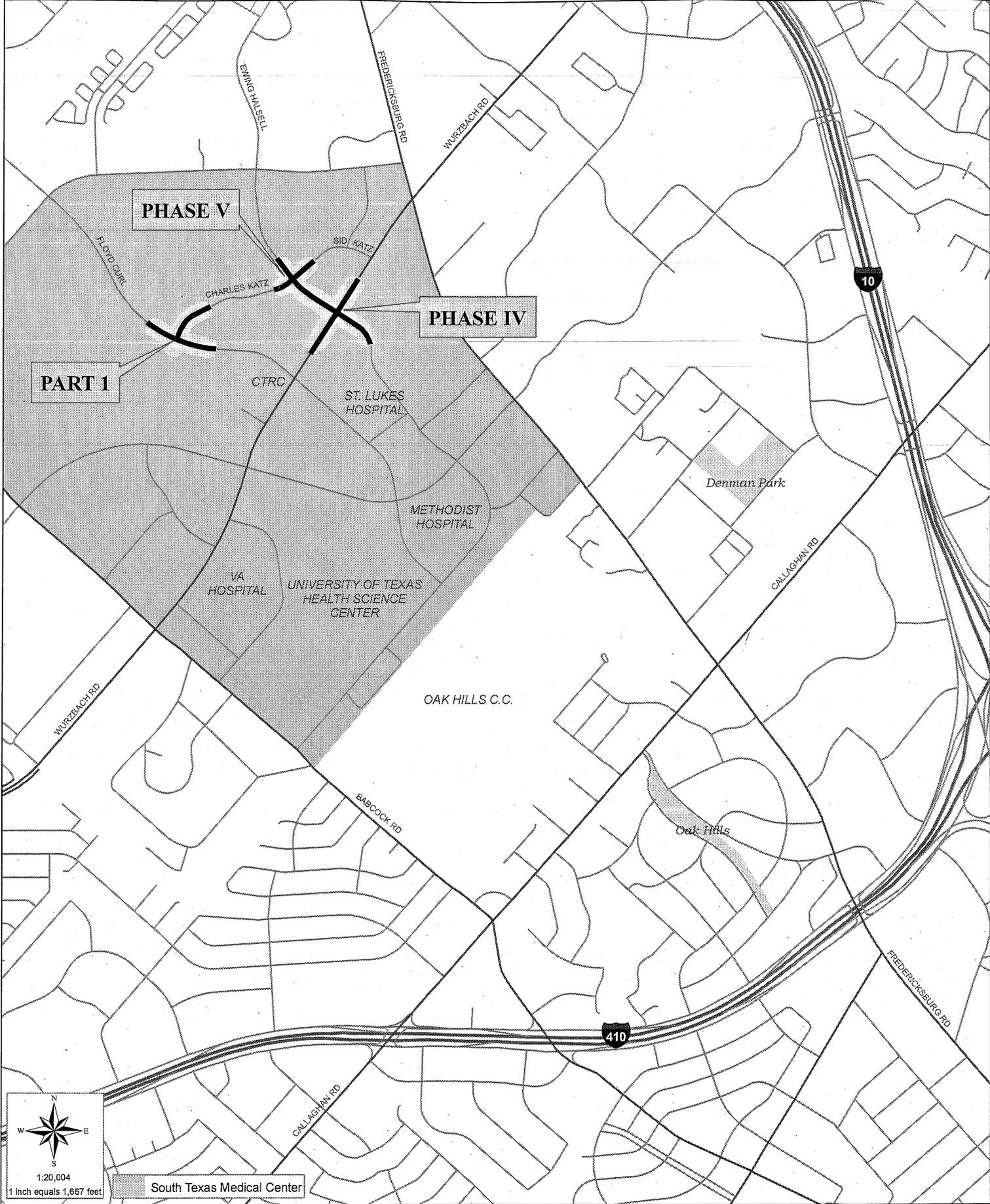


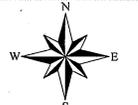
Request for  
**COUNCIL**  
ACTION



### Agenda Voting Results - 10

<b>Name:</b>	5, 6, 7, 8, 9, 10, 13, 14, 16, 17, 18, 19, 21, 23, 25, 26, 27, 28A, 28B, 28C, 28D, 28E, 28F, 28G						
<b>Date:</b>	05/01/2008						
<b>Time:</b>	09:48:03 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance awarding a construction contract in the amount of \$7,221,242.00 to E-Z Bell Construction Ltd. and approving a development agreement with the Medical Center Alliance to design improvements and purchase right of way, in connection with the Medical Center Intersection Improvements Phase IV, Phase V and Part I Project, an authorized 2007-2012 Bond Program and Certificate of Obligation Project located in District 8, and appropriating \$8,458,741.30, of which \$288,611.04 will be funded by San Antonio Water System and \$68,746.00 will be funded by CPS Energy. [Penny Postoak Ferguson, Assistant City Manager; Mike Frisbie, Director, Capital Improvements Management Services]						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x			x	
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				



  
 1:20,004  
 1 inch equals 1,667 feet

 South Texas Medical Center



CITY OF SAN ANTONIO, TEXAS  
 CIMS  
 TECHNICAL SERVICES

SOUTH TEXAS MEDICAL CENTER  
 INTERSECTION IMPROVEMENTS  
 PHASE IV, PHASE V, and PART 1

## DEVELOPMENT AGREEMENT

This *Development Agreement* (this "**Agreement**") is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2008, between Medical Center Alliance, a Texas nonprofit corporation ("**MCA**"), and the City of San Antonio, and its successors and assigns (the "**City**").

### BACKGROUND:

A. MCA and the City have a long-standing arrangement for improving traffic flow throughout the South Texas Medical Center (the "**Medical Center**"), one element of which is MCA's acquisition, with the City's help as needed, of rights of way within and around the Medical Center.

B. The City and MCA agree to continue to reasonably cooperate with each other as part of their joint plan to design and improve the flow of traffic in and around the Medical Center.

C. For the sake of good order, MCA and the City desire to document the basic elements of their arrangement in this Agreement.

D. This Agreement includes the Design and Construction of the intersection improvements funded as part of the 2007-2012 San Antonio Bond Program approved by the citizens of San Antonio and the intersection improvements funded by the 2007 through 2011 City of San Antonio Certificates of Obligation.

### AGREEMENT:

**NOW, THEREFORE**, for and in consideration of the foregoing premises and other good and valuable consideration, the receipt and legal sufficiency of which is expressly acknowledged by the parties, MCA and the City agree as follows:

1. **MCA's Responsibilities.** The City and MCA acknowledge and agree that it is MCA's responsibility to (i) acquire rights of way ("**Right of Way**") that will improve the flow of traffic (such as Right of Way for right turn lanes at appropriate intersections, or easement sites for signs to be installed) and (ii) design the infrastructure, signs (including, but not limited to, all wayfinding signs) and related improvements (collectively, the "**Improvements**") in and around the Medical Center, to facilitate and enhance the flow of traffic in and around the Medical Center. On completion of the design by MCA of the Improvements (the "**Design**"), MCA shall submit the Design to the City for review and approval, which shall not be unreasonably withheld.

2. **The City's Responsibilities.** The City shall construct and install the Improvements pursuant to the Design approved by the City, in accordance with the plans and specifications prepared and approved as part of the Design including improvements on private property to include but not limited to sign relocations, parking lot repairs and reconfiguration and lawn irrigation system repairs and improvements.

3. **Property Acquisition.** On the request and at the expense of MCA, the City shall exercise its sole discretion to acquire Right of Way or other property interests either by negotiation or eminent domain to be used for traffic flow Improvements in and around the Medical Center.

4. **Costs.** The costs to carry out the terms and goals stated in this Agreement shall be borne between MCA and the City in the manner that has been customary for them for shared-expense improvements in the Medical Center, with MCA responsible for the cost to acquire Right of Way and

similar properties, and the cost of Design of Improvements, and the City to be responsible for the cost of construction and installation of all Improvements.

5. **Construction Standards; Insurance.** MCA will ensure that all contracts to which it is a party provide for all construction to be performed in a good and workmanlike manner, and that all contractors and subcontractors have customary and reasonable insurance coverages required by the City for work on City projects. For any contract to which the City is a party, the City has advised MCA that the City will impose its normal and customary construction standards on the contractors and subcontractors involved, and shall require the maintenance of insurance coverages that satisfy its normal and customary standards.

6. **Miscellaneous.**

a. *Notice.* Any notice, approval, request or demand from one party to another under or with respect to this Agreement must be in writing and shall be deemed to have been given when personally served or when deposited in the United States mails, registered or certified, return receipt requested, addressed to the party to be notified at the following address (or at such other address as may have been designated by written notice):

**CITY:**

City of San Antonio  
Attention:

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

**MCA:**

Medical Center Alliance  
4242 N. Pan Am Expressway  
San Antonio, TX 78219  
Attn: Bill Balthrope

With copy to:

Haynes and Boone, LLP  
112 E. Pecan Street, Suite 900  
San Antonio, Texas 78205-1540  
Attn: Steven A. Waters

b. *Applicable Law.* This Agreement is being executed and delivered, and is intended to be performed, in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement and interpretation of this Agreement. In the event of a dispute involving this Agreement or any other instruments executed in connection herewith, the undersigned irrevocably agrees that venue for such dispute shall lie in any court of competent jurisdiction in Bexar County, Texas.

c. *Captions.* The headings to the various paragraphs of this Agreement have been inserted for convenient reference only and shall not modify, define, limit or expand the expressed provisions of this Agreement.

d. *Multiple Counterparts.* This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one and the same agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart.

***Remainder of Page Intentionally Left Blank***

EXECUTED as of the day and year first above written.

**MEDICAL CENTER ALLIANCE,**  
a Texas nonprofit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of the Medical Center Alliance, a Texas nonprofit corporation.

\_\_\_\_\_  
Notary Public Signature

(PERSONALIZED SEAL)

EXECUTED as of the day and year first above written.

**CITY:**

**CITY OF SAN ANTONIO,**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

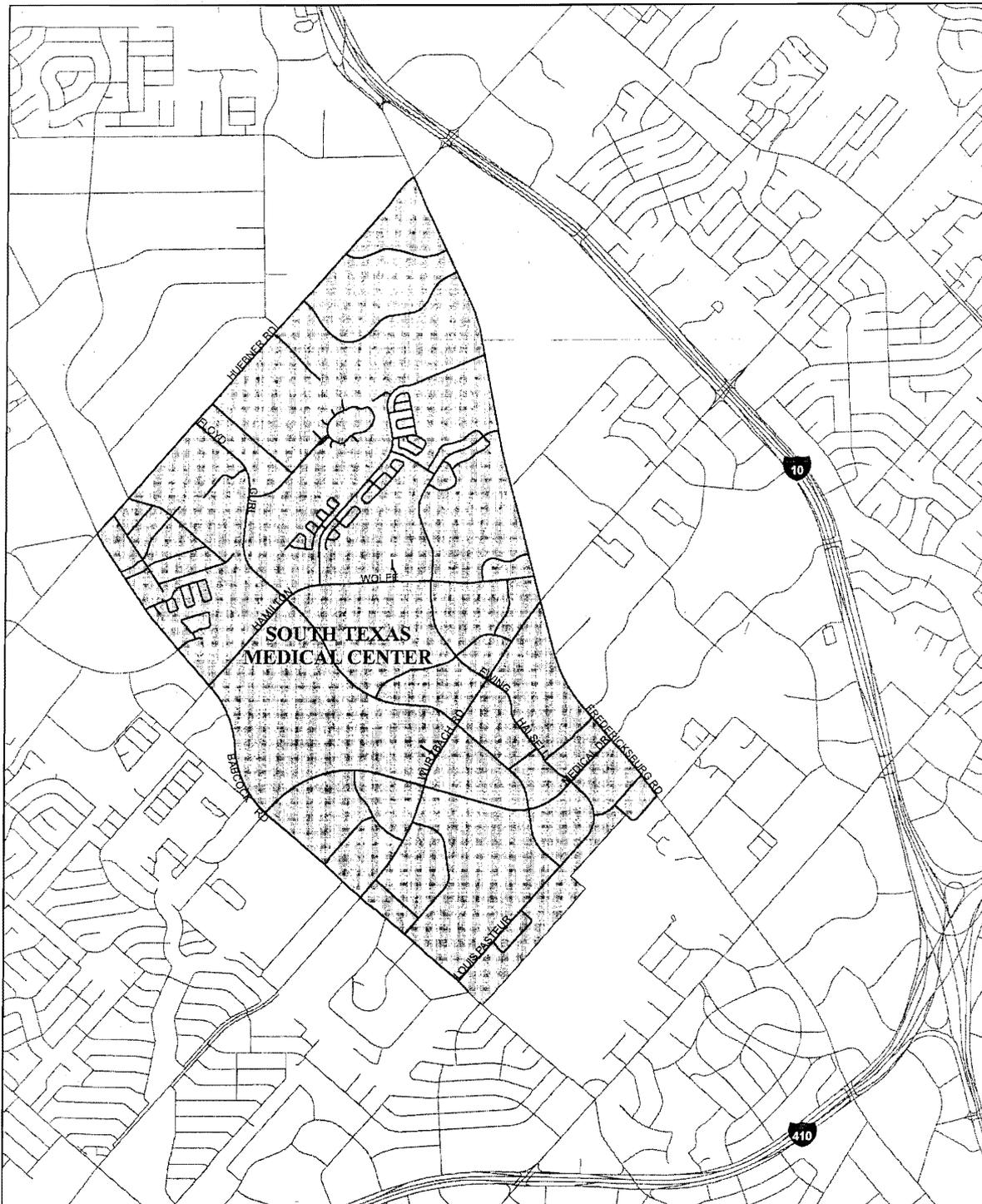
STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008,  
by \_\_\_\_\_, the \_\_\_\_\_ of the City of San  
Antonio.

\_\_\_\_\_  
Notary Public Signature

(PERSONALIZED SEAL)



**SOUTH TEXAS MEDICAL CENTER  
AREA MAP - EXHIBIT A**



**ACKNOWLEDGMENT**

1. The City of San Antonio, Texas (the “*City*”) acknowledges, for the benefit of the Medical Center Alliance (the “*MCA*”), that the City has reviewed and accepts, for public use and maintenance (on completion of all contemplated improvements, to the extent not completed at the date hereof), the previously granted rights of way, easements, and similar property transfers located in and around the South Texas Medical Center (the “*Medical Center*”), as shown on the attached **Exhibit A**.

2. To the extent reasonably necessary, and to the extent possible within its jurisdiction, the City shall take any actions that it believes to be necessary to have the permits, approvals, variances, and ordinances that will allow for the requisite improvements to be constructed on the rights of way, as designed by MCA and approved by the City, and to be classified as conforming (or, as appropriate, legal, non-conforming) under all existing City rules, codes, laws, and ordinances.

3. Any costs or expenses related hereto, as well as the labor, materials and costs to construct the improvements described in Section 2 above, shall continue to be borne between MCA and the City in the manner that has been customary for them for shared-expense improvements in the Medical Center in accordance with the DEVELOPMENT AGREEMENT.

4. It is understood that the Floyd Curl and Charles Katz intersection known, as “Part One,” will be bid as an alternate to Phase IV-Wurzbach and Ewing Halsell and Phase V-Ewing Halsell and Sid Katz. Construction funding for Phases IV and V are part of the 2007-2012 City of San Antonio Bond Package approved by the citizens of San Antonio. Part One will be funded by the City from Certificates of Obligation up to \$1,708,813.16 and the balance of \$700,200.64 plus any other costs associated with the construction of Part One will be paid for by MCA. If the MCA contributions are not used in their entirety, all excess funds will be returned to MCA. This balance includes the following:

- a. The difference between the City’s contributions from Certificates of Obligation and the actual bid cost – \$442, 092.02
- b. 10% contingencies – \$215,090.52
- c. 2% material testing costs – \$43,018.10
- d. Total – \$700,200.64

5. The signatory (ies) below hereby state and confirm that they are fully authorized to bind the City to the matters stated in this Acknowledgment.

**AGREED AND ACKNOWLEDGED:**

City of San Antonio, Texas

Medical Center Alliance

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_