

**AN ORDINANCE**

**AUTHORIZING THE SECOND AMENDMENT AND FIRST EXTENSION OF THE AUDIT SERVICES CONTRACT WITH GRANT THORNTON L.L.P., TO PROVIDE INDEPENDENT AUDIT SERVICES TO THE CITY FOR FISCAL YEAR 2009, FOR A TOTAL FEE NOT TO EXCEED \$785,000.00; AND AUTHORIZING PAYMENT**

\* \* \* \* \*

**WHEREAS**, pursuant to Ordinance No. 2007-12-06-1260 passed and approved on December 6, 2007, the City of San Antonio ("City") has entered into an Audit Services Contract ("Contract") with Grant Thornton LLP ("Contractor"), under which Contractor shall provide audit services to City for a two year period to include the required audits for the fiscal years ending September 30, 2007 and 2008, with three one year options to extend the Contract, with City Council approval, for fiscal years 2009, 2010 and 2011; and

**WHEREAS**, pursuant to Ordinance No. 2009-01-29-0073 passed and approved on January 29, 2009, certain Additional Services performed by the Contractor in connection with the FY 2007 audit were ratified and the Contract was amended to provide for such Additional Services and for payment therefor in the amount of \$19,285.00, all as set forth in the First Amendment To Audit Services Contract between the City and Contractor ("First Amendment"); and

**WHEREAS**, City Staff has now recommended **(1)** that the Contract, as amended by the First Amendment, be further amended to **(a)** revise the amount and extent of professional liability insurance coverage required to be provided by Contractor and all of its Subcontractors to more closely conform to industry standards, **(b)** provide that Contractor shall provide 16 hours of continuing education courses to the employees of the City's Finance Department, at no additional cost to City, **(c)** provide that the Comprehensive Annual Financial Report shall be completed and available for distribution not later than March 31 of the year following the end of the fiscal year being audited, or such earlier date establish by City and Contractor in the Audit Engagement Letter for that year, and **(d)** revise provisions regarding notice to City of suspension, cancellation, non-renewal or material change in coverage, or nonpayment of premium of or for any policy of insurance provided by Contractor during the term of the Contract; and **(2)** that the Contract, as so further amended, be extended for its first one (1) year renewal term, to provide for the audit of the City's books and records for Fiscal Year 2009; and

**WHEREAS**, Contractor is desirous of and willing to so amend and extend the Contract; and

**WHEREAS**, after due deliberations and upon consideration of the matter, the City Council desires to follow the City Staff recommendations in their entirety, **NOW, THEREFORE**;

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

**SECTION 1.** The Second Amendment And First Extension Of Audit Services Contract between the City and Grant Thornton L.L.P. (“Second Amendment”), a true and correct copy of which, in substantially final form, is attached hereto and incorporated herein for all purposes as Attachment I, is hereby approved. The City Manager or her Designee, or the Director of Finance or his Designee, are hereby authorized to execute the Second Amendment containing the same or substantially the same terms and conditions as those set forth in Attachment I.

**SECTION 2.** The City Manager or the Director of Finance is authorized to execute the Second Amendment. The City Manager or the Director of Finance is authorized ten (10) business days from the effective date of this Ordinance within which to negotiate and execute a contract, substantially according to the terms and conditions set forth in **Attachment I**. If said contract is not negotiated and executed within said ten (10) business days, or if the parties cannot agree to terms of such contract within such time, then there shall be no authority to execute said contract unless there is subsequent City Council approval.

**SECTION 3.** The amount of \$785,000.00 is available in Fund 11001000, General Fund, Cost Center 8002060012, and General Ledger 5201040 in the FY 2009 Budget.

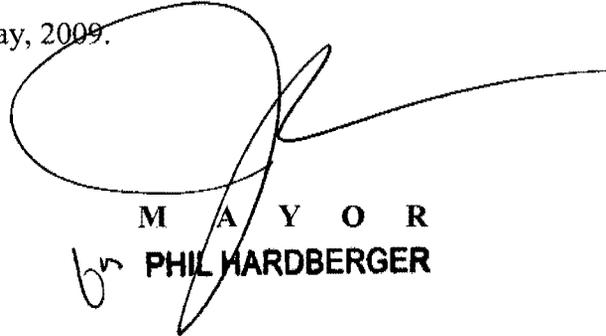
**SECTION 4.** The amount of \$785,000.00 will be encumbered and made payable to Grant Thornton L.L.P.

**SECTION 5.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

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**SECTION 6.** This Ordinance is effective immediately, upon passage by eight (8) affirmative votes; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

**PASSED AND APPROVED** this 14<sup>TH</sup> day of May, 2009.



M A Y O R  
br PHIL HARDBERGER

**ATTEST:** *Steven M. Vacek*  
City Clerk

**APPROVED AS TO FORM:** *M. Bernadette King*  
City Attorney

<b>Agenda Item:</b>	35 ( in consent vote: 10, 12, 13, 14, 15A, 15B, 17, 19, 21, 22, 23, 27, 28, 29A, 29B, 31, 32, 33, 34, 35 )
<b>Date:</b>	05/14/2009
<b>Time:</b>	05:56:40 PM
<b>Vote Type:</b>	Motion to Approve
<b>Description:</b>	An Ordinance authorizing the second amendment and first extension of the audit services contract with Grant Thornton LLP, to provide independent audit services to the City for Fiscal Year 2009, for a total fee not to exceed \$785,000.00. [Pat DiGiovanni, Deputy City Manager; Ben Gorzell, Director, Finance]
<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				x
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9	x					
John G. Clamp	District 10		x				

A T T A C H M E N T I

**SECOND AMENDMENT AND FIRST EXTENSION  
OF  
AUDIT SERVICES CONTRACT**

**STATE OF TEXAS**                   §  
  §  
**COUNTY OF BEXAR**               §

This *Second Amendment And First Extension Of Audit Services Contract* (“Second Amendment”) 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 Ben Gorzell Jr., its Director of Finance, pursuant to Ordinance No. 2009-05-14-\_\_\_\_\_ passed and approved on May 14, 2009, and **GRANT THORNTON LLP**, an Illinois limited liability partnership, acting by and through its engagement partner, Angela Dunlap (herein referred to as "Contractor"). City and Contractor are sometimes hereafter collectively referred to as the “Parties”.

**WHEREAS**, pursuant to Ordinance No. 2007-12-06-1260 passed and approved on December 6, 2007, the Parties have entered into that one certain Audit Services Contract (“Contract”), under which Contractor shall provide audit services to City for a two year period to include the required audits for the fiscal years ending September 30, 2007 and 2008, with three one year options to extend the Contract, with City Council approval, for fiscal years 2009, 2010 and 2011; and

**WHEREAS**, pursuant to Ordinance No. 2009-01-29-0073 passed and approved on January 29, 2009, the Parties have entered into that one certain First Amendment of Audit Services Contract (“First Amendment”), for the purpose of amending the Contract to include the Additional Services (as defined in the First Amendment) within the Contract, and to provide for compensation by City to Contractor in the amount of \$19,285.00 for the Additional Services; and

**WHEREAS**, **CITY** desires to (1) further amend the Contract (as amended by the First Amendment) to include the terms and conditions set forth in Article I of this Second Amendment, and (2) as further amended, to renew and extend the Contract for the first one (1) year extension, to provide for the required audit for City’s Fiscal Year 2009 (“FY 09”) ending September 30, 2009, and **CONTRACTOR** desires to do the same; **NOW, THEREFORE:**

**FOR VALUABLE CONSIDERATION**, the Parties severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

## I. AMENDMENT OF CONTRACT

- 1.1 The Contract, as amended by the First Amendment, is hereby further amended to revise Article III, Section 3.5, so that the said Article III, Section 3.5 shall hereafter read as follows:

“3.5. The Comprehensive Annual Financial Report for the FY 09 Audit will be completed and available for distribution on March 31, 2010, or the earlier date agreed upon by the Parties as specified in the Audit Engagement Letter for the FY 09 Audit. The "Management Letter" and "Single Audit Reports" for the FY 09 Audit will be completed and available for distribution within a reasonable period of time after completion of the Comprehensive Annual Financial Report.

If the Contract is extended to include the FY 10 Audit, the Comprehensive Annual Financial Report for the FY 10 Audit will be completed and available for distribution on March 31, 2011, or the earlier date agreed upon by the Parties as specified in the Audit Engagement Letter for the FY 10 Audit. The "Management Letter" and "Single Audit Reports" for the FY 10 Audit will be completed and available for distribution within a reasonable period of time after completion of the Comprehensive Annual Financial Report.

If the Contract is extended to include the FY 11 Audit, the Comprehensive Annual Financial Report for the FY 11 Audit will be completed and available for distribution on March 31, 2012, or the earlier date agreed upon by the Parties as specified in the Audit Engagement Letter for the FY 11 Audit. The "Management Letter" and "Single Audit Reports" for the FY 11 Audit will be completed and available for distribution within a reasonable period of time after completion of the Comprehensive Annual Financial Report.”

- 1.2 The Contract, as amended by the First Amendment, is hereby further amended to add Article III, Section 3.7, which shall read as follows:

“3.7. **CONTRACTOR** agrees to provide, at no additional cost to **CITY**, course training that will result in sixteen (16) hours of Continuing Professional Education (CPE) credits for each **CITY** employee attending the course training. All of the course training will be provided in the offices of the **CITY**'s Finance Department. The entire 16 hours of CPE course training shall be provided on dates mutually agreed upon by the Parties.”

- 1.3 The Contract, as amended by the First Amendment, is hereby further amended to revise Article XVI, Section 16.3, so that the said Article XVI, Section 16.3 shall hereafter read as follows:

“16.3. **CONTRACTOR**’s financial integrity is of interest to the **CITY**; therefore, **CONTRACTOR** shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at **CONTRACTOR**’s sole expense, insurance coverage written on an occurrence basis, by companies authorized to provide coverage in the State of Texas and with an A.M Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

<u>TYPE</u>	<u>AMOUNTS</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
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	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
5. Professional Liability (Claims Made Form)	\$5,000,000 per claim, with a \$5,000,000 aggregate limit, 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.

- 1.4 The Contract, as amended by the First Amendment, is hereby further amended to revise Article XVI, Section 16.4, so that the said Article XVI, Section 16.4 shall hereafter read as follows:

“16.4. Unless otherwise stated in this paragraph, **CONTRACTOR** agrees to obtain all insurance coverages with minimum limits of not less than those limits delineated in Section 16.3 (Insurance Table) from each vendor subcontracted by **CONTRACTOR** and provide a Certificate of Insurance and Endorsement that names **CONTRACTOR** and **CITY** as an additional insured in the same manner as **CONTRACTOR** is required to issue such Certificates under this Agreement. It is agreed that the Professional Liability coverage limit for each subcontractor will be no less than \$500,000 per claim with a \$500,000 aggregate limit.”

- 1.5 The Contract, as amended by the First Amendment, is hereby further amended to revise Article XVI, Section 16.6, fourth bullet so that the said Article XVI, Section 16.6, fourth bullet shall hereafter read as follows:

“16.6 [Fourth Bullet] Endeavor to provide thirty (30) calendar days advance written notice directly to **CITY** of any suspension, cancellation, non-renewal, or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium (or shall be so stated on the face of the insurance certificate provided to the City hereunder). In addition, **CONTRACTOR** shall provide written notification of each such event to **CITY** within the dates mentioned above.”

## **II. REMAINDER OF CONTRACT UNCHANGED AND IN FULL FORCE AND EFFECT**

- 2.1 Except as amended by the First Amendment and by the provisions of the above and foregoing Article I of this Second Amendment, the terms and conditions of the Contract shall remain unchanged and in full force and effect.

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**III. EXTENSION OF CONTRACT**

3.1 In accordance with the provisions of Article VI, Section 6.1 of the Contract, the Contract, as amended by the First Amendment and by the provisions of the above and foregoing Article I of this Second Amendment, is hereby renewed and extended for the first one year extension, to provide for the required audit for City's FY 09 ending September 30, 2009.

EXECUTED and AGREED TO by the Parties this the \_\_\_\_ day of \_\_\_\_\_, 2009.

**CITY:**  
CITY OF SAN ANTONIO

**CONTRACTOR:**  
GRANT THORNTON LLP

\_\_\_\_\_  
Ben Gorzell Jr., CPA  
Director of Finance

BY: \_\_\_\_\_  
Angela Dunlap  
Engagement Partner

Approved as to form:

\_\_\_\_\_  
Robert Nordhaus  
Assistant City Attorney