

AN ORDINANCE 2009-02-12-0112

**AMENDING THE PROFESSIONAL SERVICES AGREEMENT WITH 3D/INTERNATIONAL, INC. IN THE NET AMOUNT OF \$583,503.00 FOR THE DELETION OF CONTRACT ADMINISTRATION SERVICES FOR TERMINAL C AND THE ADDITION OF COMPENSATION FOR AN INCREASE IN SCOPE, DELAY AND UNCOMPENSATED CONTRACT ADMINISTRATION FEES IN CONNECTION WITH THE SAN ANTONIO INTERNATIONAL AIRPORT EXPANSION PROGRAM.**

\* \* \* \* \*

**WHEREAS**, on May 29, 2003, City Council authorized a Professional Services Agreement with 3D/International, Inc. ("3D/I") to provide Architectural and Engineering services in connection with the New Terminal Expansion Project at the San Antonio International Airport ("Original Agreement"); and

**WHEREAS**, there have been numerous amendments to the original agreement increasing the contract value to \$ 28,102,059.48; and

**WHEREAS**, the Contract Administration services for Terminal C will be eliminated from the Original Agreement and the associated \$1,185,412.00 deleted from the contract value and returned to contingency; and

**WHEREAS**, 3D/I submitted a claim in the amount of \$3,034,561.00 for previously unbilled services for an increase in scope and construction duration, delay in project startup resulting in increased costs, additional meetings, uncompensated administration services for prior Additional Services Requests, and extended project phasing and in order to avoid litigation, have agreed to a settlement whereby 3D/I, in exchange for the payment of \$1,768,915.00, will sign a Settlement and Release Agreement releasing the City of all claims and causes of action that 3D/I might have against the City for the services listed above; and

**WHEREAS**, it is necessary to amend the Original Agreement (which includes all previously approved amendments), execute the Release and Settlement Agreement, amend the scope of the Original Agreement and provide for additional compensation; **NOW THEREFORE**,

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

**SECTION 1.** The City Manager or her designee is authorized to execute (1) the Amendment to Professional Services Agreement with 3D/International in a form substantially similar to the document attached hereto as Attachment I, to amend the scope of the Original Agreement, as amended, in the net amount not to exceed \$583,503.00; and (2) the Settlement and Release Agreement in a form substantially similar to the document attached hereto as Attachment II.

**SECTION 2.** The budget in SAP Fund 51099000, Airport Capital Projects, SAP Project Definition 33-00103, 3DI New Terminal Expansion, shall be revised by increasing SAP WBS Element 33-00103-01-02 entitled 3D/International Contract, SAP GL account 5201040, by the amount of \$83,503.00.

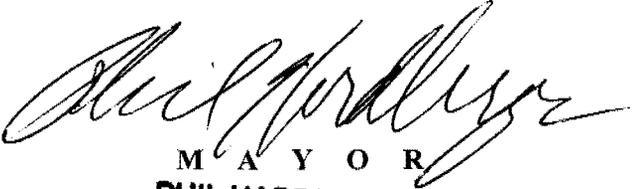
**SECTION 3.** The budget in SAP Fund 51099000, Airport Capital Projects, SAP Project Definition 33-00103, 3DI New Terminal Expansion, shall be revised by decreasing SAP WBS Element 33-00103-01-03 entitled Consultant Contingency, SAP GL Account 5406530, by the amount of \$83,503.00.

**SECTION 4.** The amount of \$583,503.00 previously appropriated in SAP Fund 51099000, Airport Capital Projects, SAP Project Definition 33-00103, 3DI New Terminal Expansion, is authorized to be encumbered and made payable to 3D/International, Inc. for construction services.

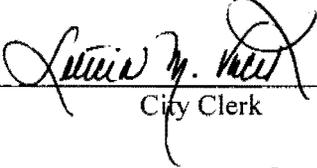
**SECTION 5.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, 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 immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective ten (10) days after its passage.

**PASSED AND APPROVED** this 12th day of February, 2009.

  
M A Y O R  
PHIL HARBERGER

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
for City Attorney

**ORDIANCE  
ATTACHMENT I**

**AMENDMENT NO. 13 TO  
PROFESSIONAL SERVICES AGREEMENT FOR  
ARCHITECTURAL AND ENGINEERING SERVICES**

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

This Amendment To Professional Services Agreement (chronologically "Amendment No. 13") is entered into by and between the City of San Antonio, a Texas Municipal Corporation ("City") acting by and through its City Manager, and 3D/International, Inc. ("3D/I"), both of which may be referred to herein collectively as the "Parties".

**WHEREAS**, on May 29, 2003, by Ordinance No. 97709, the City authorized execution of a Professional Services Agreement with 3D/I to provide Architectural and Engineering design services in connection with the New Terminal Expansion Project at the San Antonio International Airport ("Original Agreement"); and

**WHEREAS**, there have been subsequent amendments to the Original Agreement authorized by ordinance; and

**WHEREAS**, the Contract Administration Services for Terminal C will be eliminated from the Original Agreement and the associated \$1,185,412.00 deleted from the contract value and returned to contingency; and

**WHEREAS**, 3D/I submitted Additional Service Request ("ASR") 80 for previously unbilled services for an increase in scope and construction duration, delay in project startup resulting in increased costs, additional meetings, uncompensated administration services for prior Additional Services Requests, and extended project phasing. The City and 3D/I do not concur on the scope and pricing for such services and, in order to avoid litigation, have agreed to a settlement whereby 3D/I will sign a Settlement and Release Agreement (attached hereto as Attachment I) releasing the City of all claims and causes of action that 3D/I might have against the City for the services listed above and the City will approve ASR 80 in the amount of \$1,768,915.00 and amend the Original Agreement to include these service; and

**WHEREAS**, it is necessary to: 1) amend the Original Agreement to delete the Contract Administration services for Terminal C and add the preciously unbilled service in ASR 80, and 2) provide for additional compensation;

**NOW THEREFORE**, in consideration of the terms, covenants, agreements and demises herein contained, and in consideration of other good and valuable consideration, each to the other given, the sufficiency and receipt of which are hereby acknowledged, the Original Agreement (as previously amended) by and between the Parties is further amended as follows:

- 1. Contract Administration Services for Terminal C.**  
The Scope of Work set out in the Original Agreement, as amended, is hereby amended by deleting the Contract Administration Services for Terminal C set out in Attachment II. The value of the Original Agreement will be decreased by \$1,185,412.00 to reflect the deletion of the aforementioned services. These funds will be returned to contingency.
  
- 2. ASR 80.**  
The Scope of Work set out in the Original Agreement, as amended, is herby amended to include all services described in the Additional Service Request 80, as set out in Attachment III. Compensation for the services set out in ASR 80 shall be in the amount of

\$1,768,915.00. It is agreed and understood that this amount will constitute full compensation to 3D/I for the work described in Attachment III.

The appropriations for this amendment are contingent upon appropriations by the City Council of San Antonio. 3D/I and City recognize that this amendment shall be subject to appropriation of funds for the Agreement.

**3. Incorporation of Original Agreement and Amendment.**

All provisions of the Original Agreement, as amended, that are not modified by this Amendment remain in full force and effect.

**EXECUTED** and **AGREED** to this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**CITY OF SAN ANTONIO**

**3D INTERNATIONAL, INC.**

\_\_\_\_\_  
Sheryl Sculley,  
City Manager

\_\_\_\_\_  
Authorized Agent of 3D/I

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

**AMENDMENT  
ATTACHMENT I**

## **SETTLEMENT AND RELEASE AGREEMENT**

This Settlement and Release Agreement (hereinafter the "Agreement") is entered into between and among the City of San Antonio (hereinafter the "City"), a Municipal Corporation in the State of Texas, and 3D/International, Inc. (hereinafter "3D/I"), sometimes collectively referred to herein as the "Parties."

WHEREAS, the City and 3D/I entered into an agreement for architectural and engineering services in connection with an airport expansion program at San Antonio International Airport (hereinafter the "Program") pursuant to Ordinance No. 97709, passed and approved by the City Council on May 29, 2003, which contract has been amended numerous times (hereinafter the "Professional Services Agreement");

WHEREAS, 3D/I has submitted a claim for additional compensation for scope expansion, delay in project startups and extended project phasing including all costs (hereinafter the "Uncompensated Costs") associated with the Program through Additional Service Request No. 80 as set out in Attachment A;

WHEREAS, the City disputes the amount of the Uncompensated Costs;

WHEREAS, the Parties hereto desire to resolve all claims and causes of action which exist among them of any kind whatsoever and in any way related to the Uncompensated Costs amicably and without litigation. This Agreement shall not constitute or be construed to be an admission on any part by City or as evidencing or indicating any admission of the truth or correctness of any claims asserted by 3D/I;

NOW THEREFORE, in consideration of the mutual promises and agreements herein contained, including the recitals set forth above, the receipt and sufficiency of which are hereby formally acknowledged, the Parties agree as follows:

1. The City does hereby agree to payment in the total amount of One Million Seven Hundred Sixty-

Eight Thousand Nine Hundred and Fifteen and 00/100 Dollars (\$1,768,915.00) to be paid upon approval of this Agreement by the San Antonio City Council and upon invoicing of services received as full and final settlement of any and all claims, liabilities, damages, obligation and/or duties, known and unknown, asserted or unasserted, past present and future owed by City to 3D/I in any way related to or arising out of the Uncompensated Costs.

2. 3D/I, for and on behalf of itself, all related companies, partnerships or joint ventures, with respect to each of them, their predecessors and successors, shall further, and does hereby, RELEASE, ACQUIT and FOREVER DISCHARGE the City of San Antonio, its Council members, officers, directors, assigns, representatives, agents, or employees, of and from any and all claims, damages, demands, liability, lawsuits, actions or causes of action, costs, losses, expenses, compensation and/or obligations, whether known or unknown, at law or in equity, which 3D/I has or may have against the City arising from or related in any way whatsoever to the Uncompensated Costs. It is the express intent of 3D/I that this Agreement operate as a bar to any subsequent proceedings with respect to any claims, causes of action or lawsuits arising from or related to the Uncompensated Costs..
  
3. The City does hereby RELEASE, ACQUIT and FOREVER DISCHARGE 3D/I, including its related companies, partnerships or joint ventures, their predecessors and successors, of and from any and all claims, damages, demands, liability, lawsuits, actions or causes of action, costs, losses, expenses, compensation and/or obligations, whether known or unknown, at law or in equity, which the City currently has against 3D/I arising from or related in any way to errors or omission arising out of or related to the Uncompensated Costs. The City is specifically not releasing and is specifically reserving any and all claims, damages, demands, liability, lawsuits, actions or causes of action, costs, losses, expenses, compensation and/or obligations for errors or omissions related to or arising out of any work, work product, services, engineering, design, or other product created under or services performed pursuant to the Professional Services Agreement not included specifically in the Uncompensated Costs.

4. It is understood and agreed by the Parties to this Agreement that it is executed for the sole purpose of compromising and settling the matters involved in and associated with the Uncompensated Costs and it is expressly understood and agreed, as a condition of the compromise, that this Agreement shall not constitute or be construed to be an admission on any part of the City or as evidencing or indicating any admission of the truth or correctness of the Claims asserted. This Agreement is a satisfaction and accord of disputed claims relating to and arising out of the Uncompensated Costs.
5. The Parties understand and agree that any legal fees or costs expended shall be borne by the party incurring the same.
6. Both Parties acknowledge that the terms of this Agreement have been negotiated by the Parties hereto and that they have had the opportunity to review this settlement agreement for themselves and with their attorneys. By the execution hereof, the Parties hereto expressly warrant that they have read the Agreement, understand its terms, and are signing this Agreement of their own free will.
7. In making this Agreement, it is understood and agreed that the undersigned have relied wholly upon their own respective judgment, belief and knowledge of the nature, extent, and duration of any damages, as well as any liability question involved, the undersigned have not been influenced to any extent whatsoever in making this release by any representations or statements or any other matters made by the municipality, persons, firms, or corporations hereby released or by any person representing or acting for them, and that regardless of whether any representations have been made by any Party or any agent of any Party, the Parties hereto are entering into this Agreement based solely upon the terms contained herein. All Parties hereto expressly disclaim any and all past or oral representations made by such Parties or their agents. This Agreement reflects the entire agreement of understanding between the Parties with respect to the foregoing subject matter.
8. 3 D/I represents and warrants that it is the sole and lawful owner of all right, title and

interest in and to every claim and other matter that 3D/I is purporting to release or settle by this Agreement and that 3 D/I has not previously assigned or transferred, either by act or operation of law, to any party or entity, any claim or other matters released by this Agreement. It is further understood and specifically agreed that in the event that City is subjected to further claim, whether in law or in equity, by any person, firm, corporation or other entity, acting under any actual or purported right or subrogation, or assignment, 3D/I, whose claim such person asserts, will indemnify, hold harmless and defend the City from any such claim or demand.

9. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, insurers, sureties, administrators, legal representatives, corporations, partnerships, entities, successors or predecessors, directors, officers, employees, servants, assigns, attorneys or any one in privity with any of them.
10. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are to be performed in Bexar County, Texas. Any actions arising out of this Agreement shall be brought in the State District Court of Bexar County, Texas.
11. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.
12. If any action in law or in equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the other Party(ies), which fees may be set by the Court in the trial of such action, or may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief which may be awarded.

13. In the event that this Agreement, or any provisions hereof, is construed or determined to be ambiguous by any court of law or arbitrator, then in that event, the Parties agree that each Party has contributed to the preparation of this Agreement and have jointly written or composed the clauses herein contained and that no Party hereto shall be given any advantage over the other Parties under the laws of construction of instruments based upon the authorship hereof.
  
14. Any person signing this Agreement on behalf of any type of legal entity, including, but not limited to, a corporation, partnership, limited partnership or joint venture, represents and warrants that the person signing has actual authority to sign this Settlement Agreement in order to bind the legal entity he or she represents, and further warrants that the legal entity has taken all internal actions necessary or appropriate to bind the legal entity to this Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Settlement and Release Agreement to be executed by their duly authorized representatives as of the latter date set forth below.

**CITY OF SAN ANTONIO**

**3D/INTERNATIONAL, INC.**

By: \_\_\_\_\_  
City Manager

Date:

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

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

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**AMENDMENT  
ATTACHMENT II**

**TERMINAL C CA**

	Construction	Total Fee less 15% schematic design giveback	CA Fee (24%)	% Giveback	Total giveback
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BUILDING C-1	31,126,157	2,778,010	666,722	100%	666,722
APRON	119,518	5,080	1,219	100%	1,219
SPECIALTIES					
BAGGAGE	6,085,179	155,172	37,241	100%	37,241
TELECOMMUNICATION	92,250	2,352	565	100%	565
SECURITY	2,291,000	40,494	9,719	100%	9,719
FIDS & PAGING	1,447,045	36,900	8,856	100%	8,856

BUILDING C-2	12,275,019	1,095,545	262,931	100%	262,931
APRON C-2	160,936	6,840	1,642	100%	1,642
APRON C-3	192,932	8,200	1,968	100%	1,968
SPECIALTIES					
BAGGAGE	3,601,251	102,546	24,611	100%	24,611
TELECOMMUNICATION	10,750	274	66	100%	66
SECURITY	213,000	5,432	1,304	100%	1,304
FIDS & PAGING	556,313	14,186	3,405	100%	3,405

TERMINAL 2 DEMO	2,370,521	151,121	36,269	50%	18,134
APRON	2,140,254	90,961	21,831	50%	10,915

B-C CONNECTOR	1,988,066	198,310	47,594	100%	47,594
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APRON	12,255,195	520,846	125,003	40%	50,001
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AIRSIDE UTILITIES					
CONCOURSE B	327,974	25,090	6,022	0%	-
CONCOURSE C	561,191	42,931	10,303	100%	10,303
NEW STORM DRAIN	4,315,961	330,171	79,241	0%	-

B-C CONNECTOR PREMIUM	1,681,003	119,771	28,745	100%	28,745
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**TOTAL TERMINAL C AND RELATED PROJECTS CA CREDIT**

**\$ 1,185,941**

**AMENDMENT  
ATTACHMENT III**

February 6, 2009 (*supersedes proposal dated January 23, 2009*)

Mr. David Grauvogl, Senior Program Manager  
Jacobs Program Management Team  
1303 North Terminal Drive #2  
San Antonio, Texas 78216

Re: Additional Services Request No. 80:

Amendment to Professional Services Agreement due to Scope Expansion and Program Delays  
SAIA New Terminal Expansion Program

Dear Mr. Grauvogl:

We are hereby requesting an increase in our contract amount to compensate for costs incurred due to scope expansion, delay in projects' startup and extended project phasing in the San Antonio International Airport Program that were not under the control of Parsons or our subconsultants. We are also crediting Construction Administration (CA) services for Terminal C and associated enabling projects.

As early as July 2004 we notified your organization of our concerns with construction schedule slippage and how they would result in requests for additional compensation (**Exhibit 1**). This ASR justifies and quantifies costs and expenses incurred to date for Parsons and our consultants.

**Background:**

The effective date of the Notice to Proceed (NTP) for design services under our contract was July 25, 2003 and the maximum scheduled duration is "NTP for Design + 600 calendar days." Your original bar chart schedule which was the basis for our contract indicated the bulk of construction to be finished in 2006. Only the future addition to Terminal C was shown as construction activity beyond 2006. Instead, the current construction schedule shows Terminal B concluding in 2010, Terminal C in 2011, and apron work in 2013 (**Exhibit 2**).

In the interest of the program and our valued relationship with City of San Antonio, Parsons and its consultants continued to provide Architectural/Engineering (A/E) services to date at the request of the Owner and the Program Management Team (PMT). Additional Services Requests (ASRs) have addressed our costs associated with specific issues once they were identified -- most notably, Terminal C redesign -- so previously approved additional compensation is not included in this request.

We have, however, provided additional A/E services and have incurred costs during program scope expansion, delay in projects' startup and extended project phasing for which we have not been compensated. Additional adjustments in fees presented in this ASR are attributable to the following causes:



1. Adjustment of fees for CA services for Terminal C and associated enabling projects.
2. Uncompensated Construction Administration fees due to Terminal B increase in scope and complexity since our preliminary redesign.
3. Higher labor costs associated with Construction Administration services to be provided years later than originally scheduled.
4. Construction period extension beyond originally programmed construction durations.
5. Overextension of Construction Administration services due to unbundling of project phasing.
6. Required attendance at meetings with tenants, client, PMT, public entities and the Construction Manager at Risk (CMR) beyond the terms of our original agreement.
7. Uncompensated Construction Administration fees due to previously approved design ASRs.

**Contract Reference:**

Please refer to **Attachment A**, the Agreement dated May 29, 2003 between the City of San Antonio ("City") and 3D/International, Inc., now Parsons Commercial Technology Inc. ("Parsons") hereinafter called the "Agreement" pursuant to which Parsons is to perform certain services. The terms, which are defined in the Agreement, shall have the same meanings when used in this letter. Relevant provisions include:

- Page 4 paragraph III. F. – establishes the Consultant's right to recover extra cost resulting from certain types of delays
- Appendix A page 2 paragraph 1. Design Scope – establishes the project scope as that set forth in the Final Estimate dated May 1, 2003 prepared by Marmon Mok/Gensler
- Appendix A pages 23-27 – describes a list of construction phase tasks the Consultant shall provide
- Appendix A page 27 paragraph O. 1. – references the Appendix Project Schedule with Milestones as the source for determining completion of phases
- Appendix A page 28 paragraph P. 1. – requires the City to render required decisions promptly to avoid unreasonable delay in the progress of Consultant services
- Appendix B – further defines the requirements of the Consultant for construction phase services
- Appendix C – defines durations for projects under the contract
- Appendix E page 2 – defines the fee for bid, construction and closeout phase services as 26% of the Consultant's total fee
- Appendix F page 1 paragraph A. – establishes five forms for determining compensation for additional services

- Appendix F page 2 paragraph B. 12. e. – establishes services required by the extension of the original construction completion as additional services
- Appendix F page 2 paragraph B. 25 – establishes providing work in connection with the work of a construction manager as additional services
- Appendix F page 4 paragraph E – defines salary costs.

**Additional Services Request:**

***1. Adjustment of fees for CA services for Terminal C and associated enabling projects.***

ASR #52 adjusted our fee for the redesign of Terminal C. Our adjusted fees included the originally budgeted CA phase fees in the amount of **\$1,185,412**, including Terminal C and enabling projects such as the B-C Connector. See **Attachment A.1** for details.

***2. Construction Administration fees due to Terminal B increase in scope and complexity since our preliminary design.***

ASR #33 and other ASRs adjusted our design fee related to Terminal B changes, but the related Construction Administration phase fee was not adjusted to reflect the increase in building size and complexity resulting from redesign.

To determine the cost value of this scope increase, refer to **Attachment B** that shows the additional features added to Terminal B. These features resulted in a net increase of 54,057 square feet.

Following are examples of items incorporated in the redesign which substantially increased the project requirements:

- West End Terminal 1: Aviation Department request to widen the pedestrian passage between Terminals 1 and B required substantial work to the west end of the existing terminal, including demolition of an elevator, changes to Baggage Service Offices (BSOs), reconstruction of the west wall and construction of new exterior walls.
- East Bookend: Relocation of the pedestrian bridge to the east end of the terminal required new public space at the service level, new elevators and construction of additional public space at the mezzanine level.
- Bridge Landing at Parking Garage: The Bridge required a new landing above the top level of the existing garage, new stairs to access the landing, extension of the existing elevator hoistway and replacement of the garage elevators.

- 8th Gate: The north hold room was expanded to the north.
- Concession Space: Concession space was added to the concourse forming a food court at the base of the concourse.
- Baggage Handling System (BHS) Space: A portion of the bag make-up area was enclosed to provide space for an in-line screening system. The screening area was later vacated, but will be finished out for other functions.
- Service Corridor: The Departures level service corridor behind the ticket counters and checkpoint was added to facilitate concession deliveries.

The range of cost per square foot provided by the CMR and the PMT is between \$510 and \$540 for Terminal B (**Attachment C**). Using an average of \$525 per square foot, the additional area described above increases the construction cost for Terminal B by \$28,379,925 ( $\$525/\text{SF} \times 54,057\text{SF}$ ).

Refer to **Attachment D** for an email and spreadsheet sent to Hugo Elmore and John Storms on May 2, 2003, which was the basis for our fee negotiation and resulting contract. It shows the fee for Terminal B to be 10.50% of the estimated construction cost. Additionally, our contract specifies the Construction Administration and Close Out to be 24% of the overall fee.

Using the same basis for calculation as used to determine the original contract amount, our additional fee for increased Construction Administration and Close Out services due to additional square footage is **\$715,174** ( $\$28,379,925 \times 10.5\% \times 24\%$ ).

Our Construction Administration services fee was not adjusted to reflect this increase in scope size and complexity. We request that the contract amount be adjusted accordingly to accommodate the level of effort that is now required.

**3. Higher labor costs associated with Construction Administration services to be provided in 2008-2013; years later than originally scheduled.**

Construction Administration work under our original agreement should have started in 2004 using labor rates for that year. Instead, the bulk of construction and our associated services will be delivered during 2008-2013 requiring much higher rates (Refer to **Attachment E** – new construction dates supplied by Jacobs; and **Attachment E.1** – Bar Chart representation of original and new construction schedule). Our Construction Administration fee has not been adjusted to account for this increased cost.

The years 2005, 2006 and 2007 were among the most competitive employment markets for experienced A/E professionals in recent times. As a result salaries increased at a rate that greatly exceed the consumer price index and other generally accepted cost of living indices.

Parsons salaries for professional staff in the San Antonio office who worked on this project increased 6.56% for 2005, 8.01% for 2006, 7.34% for 2007, and 7.44% for 2008 (Refer to **Attachment F** and **Attachment F.1 – the latter shows an updated calculation based on the PMT's comments**). We are projecting inflation of 4% for years 2009 through 2013.

The increase in labor cost that we incurred due to compounding inflation of labor rates results in an adjustment to the project Construction Administration and Close Out fee of **\$411,792**. See **Attachment G** for our inflation adjustment calculation.

**4. Construction period extension beyond originally programmed construction durations.**

Please refer to **Attachment E.1** for a graphic bar chart showing the original procurement and construction schedule for the various phases of work. Based on your suggested calculation method for construction time extensions using monthly run rates, we request an addition to our basic services agreement in the amount of **\$836,688** (excluding Terminal C Construction Administration and Apron inflation). Please refer to **Attachment E.2** for the details.

**5. Overextension of Construction Administration services due to unbundling of project phasing.**

There have been lengthy and widely-recognized delays in the construction of major project components, including Terminal Buildings and Roadway. As an example, at the time of contract negotiation, our Construction Administration fee for Project 4, Terminal B, was based on design completion on August 18, 2004; construction did not begin until May 23, 2008, equivalent to a 1,372-day schedule slip.

There have been 6,565 Construction Administration hours expended by Parsons from late 2005 through 2008 on ongoing projects (refer to **Attachment H**). Our civil engineering consultant has expended 5,252 Construction Administration hours from late 2005 to date (refer to **Attachment I**).

Our original Construction Administration fee was based on project phasing with significant overlap. This allowed us to plan on an aggressive Construction Administration period for all projects. Major project components have slipped long past plan time. This spreading of projects has also resulted in inefficiency in the way we agreed to provide the services. With the delays and re-phasing of construction, we have not been able to mobilize a full time Construction Administration effort that could deal with construction phase issues on several projects simultaneously. Instead we have a number of our staff and our sub consultants involved on a part time basis providing Construction Administration to the on-going projects.

Our fee was negotiated as shown on **Attachment D**. Current Earned Value of Construction Administration fees based on construction in place is \$377,367 (**Attachment J**). Using the terms stipulated in our contract (**Attachment A**, Appendix F, pages 1 and 4), salary cost is raw salary plus fringe at 31%, times a multiplier of 2.5, resulting in a Value of Service of \$793,896. Our consultant's Value of Service is \$420,160. The total A/E Value of Service is \$1,214,056 including consultants (\$793,896 + \$420,160).

Our Construction Administration fee was not adjusted to reflect effort expended due to inefficiency of the construction phase, which should result in a fee adjustment of **\$836,689** (\$1,214,056 - \$377,367).

**6. Required attendance at meetings with tenants, public entities and the Construction Manager at Risk beyond the terms of our original agreement.**

The number of changes in the project scope, phasing of project elements and involvement of multiple stakeholders that have taken place in meetings and conferences from 2005 to 2008 is beyond the terms of our contract. In addition, the City hired Clark/Byrne Joint Venture as a Construction Manager at Risk for pre-construction and construction services in 2007, which required even more participation in briefings and meetings. The CMR approach was a project delivery change from our original contract, and the additional coordination time required by this change was beyond what could have been expected. All of these efforts are stipulated as a basis for additional services compensation under our contract (refer to **Attachment A**, Appendix F, pages 1-4).

**Attachment K** is substantiation of participation in meetings with tenants and public entities at the request of the owner and the PMT beyond the terms of our original agreement. Using the terms of our original contract (refer to **Attachment A**, Appendix F, pages 1-4) the value of the effort documented herein amounts to \$46,493.

**Attachment L** is substantiation of participation in meetings with the Construction Manager at risk at the request of the owner and the PMT beyond the terms of our original agreement. Using the terms of our original contract (refer to **Attachment A**, Appendix F, pages 1 -4) the value of the effort documented herein amounts to \$24,103.

We request adjustment of our fee to reflect the effort beyond the terms of the base contract in the substantiated amount of **\$70,596**.

**7. Uncompensated Construction Administration fees due to previously approved design ASRs.**

Please refer to **Attachment M** for a summary of our ASRs to date. The attachment shows Construction Administration services and the uncompensated fee for those ASRs that require it. As in Item 1 above, we are using the contractual allowance for Construction Administration and Close out of 24%.

We request adjustment of our fee to reflect the effort beyond the terms of the base contract in the substantiated amount of **\$163,662**. Note in the Attachment M that several ASR's still need determination pending further definition.

**Summary:**

We are formally seeking Prime and Consultant compensation in accordance with our Agreement for the above-mentioned causes for additional expenses discussed and corroborated in this request, for the lump sum amounts shown in the chart below.

1. Adjustment of fees to de-scope CA services for Terminal C	(\$1,185,412)
2. Additional scope of Terminal B CA services	\$ 715,174
3. CA inflation	\$ 411,792
4. Construction period durations extension	\$ 836,688
5. Additional CA for unbundling of project phasing	\$ 836,689
6. Additional meetings beyond original agreement	\$ 70,596
7. Uncompensated CA fees for prior design ASRs	\$ 163,622
Subtotal Items 2-7:	\$ 2,871,299
<b>Net increase:</b>	<b>\$ 1,849,149</b>

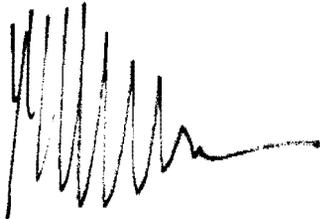
However, due to the age of the compensation request items, long discussions and substantial negotiations with the PMT and the Aviation Department personnel, we are adjusting amount of the total request as set out below. Notwithstanding the elimination of CA services for Terminal C, any apron-related CA services associated with Terminal B, to include the Apron Phase 3A section of apron, will be performed in accordance with the Agreement.

1. Adjustment of fees to de-scope CA services for Terminal C	(\$1,185,412)
2. Adjustment of fees for additional services listed above	\$1,768,915
<b>Net increase to Professional Services Agreement for ASR #80:</b>	<b>\$ 583,503</b>

Mr. David Grauvogl, Interim Program Manager  
ASR #80  
February 6, 2009  
Page 8

We welcome the opportunity to review this matter with you at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andres Andujar', with a long horizontal flourish extending to the right.

Andres Andujar  
Vice President

cc: Mr. Michael Sawaya, Interim Aviation Director  
Ms. Frances Sheretz, Assistant Aviation Director  
Ms. Julie Kenfield, Special Services Manager  
Ms. LeaAnn Jones, Program Controls Manager  
Mr. Rodrigo "Rod" Rodriguez, Contract Coordinator

**ORDINANCE  
ATTACHMENT II**

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (hereinafter the "Agreement") is entered into between and among the City of San Antonio (hereinafter the "City"), a Municipal Corporation in the State of Texas, and 3D/International, Inc. (hereinafter "3D/I"), sometimes collectively referred to herein as the "Parties."

WHEREAS, the City and 3D/I entered into an agreement for architectural and engineering services in connection with an airport expansion program at San Antonio International Airport (hereinafter the "Program") pursuant to Ordinance No. 97709, passed and approved by the City Council on May 29, 2003, which contract has been amended numerous times (hereinafter the "Professional Services Agreement");

WHEREAS, 3D/I has submitted a claim for additional compensation for scope expansion, delay in project startups and extended project phasing including all costs (hereinafter the "Uncompensated Costs") associated with the Program through Additional Service Request No. 80 as set out in Attachment A;

WHEREAS, the City disputes the amount of the Uncompensated Costs;

WHEREAS, the Parties hereto desire to resolve all claims and causes of action which exist among them of any kind whatsoever and in any way related to the Uncompensated Costs amicably and without litigation. This Agreement shall not constitute or be construed to be an admission on any part by City or as evidencing or indicating any admission of the truth or correctness of any claims asserted by 3D/I;

NOW THEREFORE, in consideration of the mutual promises and agreements herein contained, including the recitals set forth above, the receipt and sufficiency of which are hereby formally acknowledged, the Parties agree as follows:

1. The City does hereby agree to payment in the total amount of One Million Seven Hundred Sixty-

Eight Thousand Nine Hundred and Fifteen and 00/100 Dollars (\$1,768,915.00) to be paid upon approval of this Agreement by the San Antonio City Council and upon invoicing of services received as full and final settlement of any and all claims, liabilities, damages, obligation and/or duties, known and unknown, asserted or unasserted, past present and future owed by City to 3D/I in any way related to or arising out of the Uncompensated Costs.

2. 3D/I, for and on behalf of itself, all related companies, partnerships or joint ventures, with respect to each of them, their predecessors and successors, shall further, and does hereby, RELEASE, ACQUIT and FOREVER DISCHARGE the City of San Antonio, its Council members, officers, directors, assigns, representatives, agents, or employees, of and from any and all claims, damages, demands, liability, lawsuits, actions or causes of action, costs, losses, expenses, compensation and/or obligations, whether known or unknown, at law or in equity, which 3D/I has or may have against the City arising from or related in any way whatsoever to the Uncompensated Costs. It is the express intent of 3D/I that this Agreement operate as a bar to any subsequent proceedings with respect to any claims, causes of action or lawsuits arising from or related to the Uncompensated Costs..
  
3. The City does hereby RELEASE, ACQUIT and FOREVER DISCHARGE 3D/I, including its related companies, partnerships or joint ventures, their predecessors and successors, of and from any and all claims, damages, demands, liability, lawsuits, actions or causes of action, costs, losses, expenses, compensation and/or obligations, whether known or unknown, at law or in equity, which the City currently has against 3D/I arising from or related in any way to errors or omission arising out of or related to the Uncompensated Costs. The City is specifically not releasing and is specifically reserving any and all claims, damages, demands, liability, lawsuits, actions or causes of action, costs, losses, expenses, compensation and/or obligations for errors or omissions related to or arising out of any work, work product, services, engineering, design, or other product created under or services performed pursuant to the Professional Services Agreement not included specifically in the Uncompensated Costs.

4. It is understood and agreed by the Parties to this Agreement that it is executed for the sole purpose of compromising and settling the matters involved in and associated with the Uncompensated Costs and it is expressly understood and agreed, as a condition of the compromise, that this Agreement shall not constitute or be construed to be an admission on any part of the City or as evidencing or indicating any admission of the truth or correctness of the Claims asserted. This Agreement is a satisfaction and accord of disputed claims relating to and arising out of the Uncompensated Costs.
5. The Parties understand and agree that any legal fees or costs expended shall be borne by the party incurring the same.
6. Both Parties acknowledge that the terms of this Agreement have been negotiated by the Parties hereto and that they have had the opportunity to review this settlement agreement for themselves and with their attorneys. By the execution hereof, the Parties hereto expressly warrant that they have read the Agreement, understand its terms, and are signing this Agreement of their own free will.
7. In making this Agreement, it is understood and agreed that the undersigned have relied wholly upon their own respective judgment, belief and knowledge of the nature, extent, and duration of any damages, as well as any liability question involved, the undersigned have not been influenced to any extent whatsoever in making this release by any representations or statements or any other matters made by the municipality, persons, firms, or corporations hereby released or by any person representing or acting for them, and that regardless of whether any representations have been made by any Party or any agent of any Party, the Parties hereto are entering into this Agreement based solely upon the terms contained herein. All Parties hereto expressly disclaim any and all past or oral representations made by such Parties or their agents. This Agreement reflects the entire agreement of understanding between the Parties with respect to the foregoing subject matter.
8. 3 D/I represents and warrants that it is the sole and lawful owner of all right, title and

interest in and to every claim and other matter that 3D/I is purporting to release or settle by this Agreement and that 3 D/I has not previously assigned or transferred, either by act or operation of law, to any party or entity, any claim or other matters released by this Agreement. It is further understood and specifically agreed that in the event that City is subjected to further claim, whether in law or in equity, by any person, firm, corporation or other entity, acting under any actual or purported right or subrogation, or assignment, 3D/I, whose claim such person asserts, will indemnify, hold harmless and defend the City from any such claim or demand.

9. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, insurers, sureties, administrators, legal representatives, corporations, partnerships, entities, successors or predecessors, directors, officers, employees, servants, assigns, attorneys or any one in privity with any of them.
10. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are to be performed in Bexar County, Texas. Any actions arising out of this Agreement shall be brought in the State District Court of Bexar County, Texas.
11. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.
12. If any action in law or in equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees from the other Party(ies), which fees may be set by the Court in the trial of such action, or may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief which may be awarded.

13. In the event that this Agreement, or any provisions hereof, is construed or determined to be ambiguous by any court of law or arbitrator, then in that event, the Parties agree that each Party has contributed to the preparation of this Agreement and have jointly written or composed the clauses herein contained and that no Party hereto shall be given any advantage over the other Parties under the laws of construction of instruments based upon the authorship hereof.
  
14. Any person signing this Agreement on behalf of any type of legal entity, including, but not limited to, a corporation, partnership, limited partnership or joint venture, represents and warrants that the person signing has actual authority to sign this Settlement Agreement in order to bind the legal entity he or she represents, and further warrants that the legal entity has taken all internal actions necessary or appropriate to bind the legal entity to this Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Settlement and Release Agreement to be executed by their duly authorized representatives as of the latter date set forth below.

**CITY OF SAN ANTONIO**

**3D/INTERNATIONAL, INC.**

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

City Manager

Date:

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

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

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

THE STATE OF TEXAS '
COUNTY OF BEXAR '

BEFORE ME, a notary public, on this day personally appeared \_\_\_\_\_,
known to me to be the person whose name is subscribed to the foregoing instrument, and
acknowledged to me that he executed the same for the purposes and consideration therein
expressed.

GIVEN UNDER MY HAND and SEAL OF OFFICE this \_\_\_\_\_ day of
\_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS '
COUNTY OF BEXAR '

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known to me to be the person whose name is subscribed to the foregoing instrument, and
acknowledged to me that he executed the same for the purposes and consideration therein
expressed.

GIVEN UNDER MY HAND and SEAL OF OFFICE this \_\_\_\_\_ day of
\_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public, State of Texas

## ATTACHMENT A

# PARSONS

219 E. Houston St, Suite 350, San Antonio, Texas • (210) 227-2500 • www.parsons.com

February 6, 2009 (*supersedes proposal dated January 23, 2009*)

Mr. David Grauvogl, Senior Program Manager  
Jacobs Program Management Team  
1303 North Terminal Drive #2  
San Antonio, Texas 78216

Re: Additional Services Request No. 80:

Amendment to Professional Services Agreement due to Scope Expansion and Program Delays  
SAIA New Terminal Expansion Program

Dear Mr. Grauvogl:

We are hereby requesting an increase in our contract amount to compensate for costs incurred due to scope expansion, delay in projects' startup and extended project phasing in the San Antonio International Airport Program that were not under the control of Parsons or our subconsultants. We are also crediting Construction Administration (CA) services for Terminal C and associated enabling projects.

As early as July 2004 we notified your organization of our concerns with construction schedule slippage and how they would result in requests for additional compensation (**Exhibit 1**). This ASR justifies and quantifies costs and expenses incurred to date for Parsons and our consultants.

**Background:**

The effective date of the Notice to Proceed (NTP) for design services under our contract was July 25, 2003 and the maximum scheduled duration is "NTP for Design + 600 calendar days." Your original bar chart schedule which was the basis for our contract indicated the bulk of construction to be finished in 2006. Only the future addition to Terminal C was shown as construction activity beyond 2006. Instead, the current construction schedule shows Terminal B concluding in 2010, Terminal C in 2011, and apron work in 2013 (**Exhibit 2**).

In the interest of the program and our valued relationship with City of San Antonio, Parsons and its consultants continued to provide Architectural/Engineering (A/E) services to date at the request of the Owner and the Program Management Team (PMT). Additional Services Requests (ASRs) have addressed our costs associated with specific issues once they were identified -- most notably, Terminal C redesign -- so previously approved additional compensation is not included in this request.

We have, however, provided additional A/E services and have incurred costs during program scope expansion, delay in projects' startup and extended project phasing for which we have not been compensated. Additional adjustments in fees presented in this ASR are attributable to the following causes:

1. Adjustment of fees for CA services for Terminal C and associated enabling projects.
2. Uncompensated Construction Administration fees due to Terminal B increase in scope and complexity since our preliminary redesign.
3. Higher labor costs associated with Construction Administration services to be provided years later than originally scheduled.
4. Construction period extension beyond originally programmed construction durations.
5. Overextension of Construction Administration services due to unbundling of project phasing.
6. Required attendance at meetings with tenants, client, PMT, public entities and the Construction Manager at Risk (CMR) beyond the terms of our original agreement.
7. Uncompensated Construction Administration fees due to previously approved design ASRs.

**Contract Reference:**

Please refer to **Attachment A**, the Agreement dated May 29, 2003 between the City of San Antonio ("City") and 3D/International, Inc., now Parsons Commercial Technology Inc. ("Parsons") hereinafter called the "Agreement" pursuant to which Parsons is to perform certain services. The terms, which are defined in the Agreement, shall have the same meanings when used in this letter. Relevant provisions include:

- Page 4 paragraph III. F. – establishes the Consultant's right to recover extra cost resulting from certain types of delays
- Appendix A page 2 paragraph 1. Design Scope – establishes the project scope as that set forth in the Final Estimate dated May 1, 2003 prepared by Marmon Mok/Gensler
- Appendix A pages 23-27 – describes a list of construction phase tasks the Consultant shall provide
- Appendix A page 27 paragraph O. 1. – references the Appendix Project Schedule with Milestones as the source for determining completion of phases
- Appendix A page 28 paragraph P. 1. – requires the City to render required decisions promptly to avoid unreasonable delay in the progress of Consultant services
- Appendix B – further defines the requirements of the Consultant for construction phase services
- Appendix C – defines durations for projects under the contract
- Appendix E page 2 – defines the fee for bid, construction and closeout phase services as 26% of the Consultant's total fee
- Appendix F page 1 paragraph A. – establishes five forms for determining compensation for additional services
- Appendix F page 2 paragraph B. 12. e. – establishes services required by the extension of the original construction completion as additional services
- Appendix F page 2 paragraph B. 25 – establishes providing work in connection with the work of a construction manager as additional services
- Appendix F page 4 paragraph E – defines salary costs.

**Additional Services Request:**

***1. Adjustment of fees for CA services for Terminal C and associated enabling projects.***

ASR #52 adjusted our fee for the redesign of Terminal C. Our adjusted fees included the originally budgeted CA phase fees in the amount of **\$1,185,412**, including Terminal C and enabling projects such as the B-C Connector. See **Attachment A.1** for details.

***2. Construction Administration fees due to Terminal B increase in scope and complexity since our preliminary design.***

ASR #33 and other ASRs adjusted our design fee related to Terminal B changes, but the related Construction Administration phase fee was not adjusted to reflect the increase in building size and complexity resulting from redesign.

To determine the cost value of this scope increase, refer to **Attachment B** that shows the additional features added to Terminal B. These features resulted in a net increase of 54,057 square feet.

Following are examples of items incorporated in the redesign which substantially increased the project requirements:

- **West End Terminal 1:** Aviation Department request to widen the pedestrian passage between Terminals 1 and B required substantial work to the west end of the existing terminal, including demolition of an elevator, changes to Baggage Service Offices (BSOs), reconstruction of the west wall and construction of new exterior walls.
- **East Bookend:** Relocation of the pedestrian bridge to the east end of the terminal required new public space at the service level, new elevators and construction of additional public space at the mezzanine level.
- **Bridge Landing at Parking Garage:** The Bridge required a new landing above the top level of the existing garage, new stairs to access the landing, extension of the existing elevator hoistway and replacement of the garage elevators.

- **8th Gate:** The north hold room was expanded to the north.
- **Concession Space:** Concession space was added to the concourse forming a food court at the base of the concourse.
- **Baggage Handling System (BHS) Space:** A portion of the bag make-up area was enclosed to provide space for an in-line screening system. The screening area was later vacated, but will be finished out for other functions.
- **Service Corridor:** The Departures level service corridor behind the ticket counters and checkpoint was added to facilitate concession deliveries.

The range of cost per square foot provided by the CMR and the PMT is between \$510 and \$540 for Terminal B (**Attachment C**). Using an average of \$525 per square foot, the additional area described above increases the construction cost for Terminal B by \$28,379,925 (\$525/SF x 54,057SF).

Refer to **Attachment D** for an email and spreadsheet sent to Hugo Elmore and John Storms on May 2, 2003, which was the basis for our fee negotiation and resulting contract. It shows the fee for Terminal B to be 10.50% of the estimated construction cost. Additionally, our contract specifies the Construction Administration and Close Out to be 24% of the overall fee.

Using the same basis for calculation as used to determine the original contract amount, our additional fee for increased Construction Administration and Close Out services due to additional square footage is **\$715,174** (\$28,379,925 x 10.5% x 24%).

Our Construction Administration services fee was not adjusted to reflect this increase in scope size and complexity. We request that the contract amount be adjusted accordingly to accommodate the level of effort that is now required.

***3. Higher labor costs associated with Construction Administration services to be provided in 2008-2013; years later than originally scheduled.***

Construction Administration work under our original agreement should have started in 2004 using labor rates for that year. Instead, the bulk of construction and our associated services will be delivered during 2008-2013 requiring much higher rates (Refer to **Attachment E** – new construction dates supplied by Jacobs; and **Attachment E.1** – Bar Chart representation of original and new construction schedule). Our Construction Administration fee has not been adjusted to account for this increased cost.

The years 2005, 2006 and 2007 were among the most competitive employment markets for experienced A/E professionals in recent times. As a result salaries increased at a rate that greatly exceed the consumer price index and other generally accepted cost of living indices.

Parsons salaries for professional staff in the San Antonio office who worked on this project increased 6.56% for 2005, 8.01% for 2006, 7.34% for 2007, and 7.44% for 2008 (Refer to **Attachment F** and **Attachment F.1** – the latter shows an updated calculation based on the PMT's comments). We are projecting inflation of 4% for years 2009 through 2013.

The increase in labor cost that we incurred due to compounding inflation of labor rates results in an adjustment to the project Construction Administration and Close Out fee of **\$411,792**. See **Attachment G** for our inflation adjustment calculation.

**4. Construction period extension beyond originally programmed construction durations.**

Please refer to **Attachment E.1** for a graphic bar chart showing the original procurement and construction schedule for the various phases of work. Based on your suggested calculation method for construction time extensions using monthly run rates, we request an addition to our basic services agreement in the amount of **\$836,688** (excluding Terminal C Construction Administration and Apron inflation). Please refer to **Attachment E.2** for the details.

**5. Overextension of Construction Administration services due to unbundling of project phasing.**

There have been lengthy and widely-recognized delays in the construction of major project components, including Terminal Buildings and Roadway. As an example, at the time of contract negotiation, our Construction Administration fee for Project 4, Terminal B, was based on design completion on August 18, 2004; construction did not begin until May 23, 2008, equivalent to a 1,372-day schedule slip.

There have been 6,565 Construction Administration hours expended by Parsons from late 2005 through 2008 on ongoing projects (refer to **Attachment H**). Our civil engineering consultant has expended 5,252 Construction Administration hours from late 2005 to date (refer to **Attachment I**).

Our original Construction Administration fee was based on project phasing with significant overlap. This allowed us to plan on an aggressive Construction Administration period for all projects. Major project components have slipped long past plan time. This spreading of projects has also resulted in inefficiency in the way we agreed to provide the services. With the delays and re-phasing of construction, we have not been able to mobilize a full time Construction Administration effort that could deal with construction phase issues on several projects simultaneously. Instead we have a number of our staff and our sub consultants involved on a part time basis providing Construction Administration to the on-going projects.

Our fee was negotiated as shown on **Attachment D**. Current Earned Value of Construction Administration fees based on construction in place is \$377,367 (**Attachment J**). Using the terms stipulated in our contract (**Attachment A**, Appendix F, pages 1 and 4), salary cost is raw salary plus fringe at 31%, times a multiplier of 2.5, resulting in a Value of Service of \$793,896. Our consultant's Value of Service is \$420,160. The total A/E Value of Service is \$1,214,056 including consultants (\$793,896 + \$420,160).

Our Construction Administration fee was not adjusted to reflect effort expended due to inefficiency of the construction phase, which should result in a fee adjustment of **\$836,689** (\$1,214,056 - \$377,367).

**6. Required attendance at meetings with tenants, public entities and the Construction Manager at Risk beyond the terms of our original agreement.**

The number of changes in the project scope, phasing of project elements and involvement of multiple stakeholders that have taken place in meetings and conferences from 2005 to 2008 is beyond the terms of our contract. In addition, the City hired Clark/Byrne Joint Venture as a Construction Manager at Risk for pre-construction and construction services in 2007, which required even more participation in briefings and meetings. The CMR approach was a project delivery change from our original contract, and the additional coordination time required by this change was beyond what could have been expected. All of these efforts are stipulated as a basis for additional services compensation under our contract (refer to **Attachment A**, Appendix F, pages 1-4).

**Attachment K** is substantiation of participation in meetings with tenants and public entities at the request of the owner and the PMT beyond the terms of our original agreement. Using the terms of our original contract (refer to **Attachment A**, Appendix F, pages 1-4) the value of the effort documented herein amounts to \$46,493.

**Attachment L** is substantiation of participation in meetings with the Construction Manager at risk at the request of the owner and the PMT beyond the terms of our original agreement. Using the terms of our original contract (refer to **Attachment A**, Appendix F, pages 1-4) the value of the effort documented herein amounts to \$24,103.

We request adjustment of our fee to reflect the effort beyond the terms of the base contract in the substantiated amount of **\$70,596**.

**7. Uncompensated Construction Administration fees due to previously approved design ASRs.**

Please refer to **Attachment M** for a summary of our ASRs to date. The attachment shows Construction Administration services and the uncompensated fee for those ASRs that require it. As in Item 1 above, we are using the contractual allowance for Construction Administration and Close out of 24%.

We request adjustment of our fee to reflect the effort beyond the terms of the base contract in the substantiated amount of **\$163,662**. Note in the Attachment M that several ASR's still need determination pending further definition.

**Summary:**

We are formally seeking Prime and Consultant compensation in accordance with our Agreement for the above-mentioned causes for additional expenses discussed and corroborated in this request, for the lump sum amounts shown in the chart below.

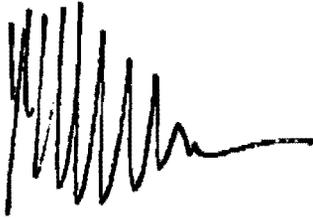
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7. Uncompensated CA fees for prior design ASRs	\$ 163,622
Subtotal Items 2-7:	\$ 2,871,299
<b>Net increase:</b>	<b>\$ 1,849,149</b>

However, due to the age of the compensation request items, long discussions and substantial negotiations with the PMT and the Aviation Department personnel, we are adjusting amount of the total request as set out below. Notwithstanding the elimination of CA services for Terminal C, any apron-related CA services associated with Terminal B, to include the Apron Phase 3A section of apron, will be performed in accordance with the Agreement.

1. Adjustment of fees to de-scope CA services for Terminal C	(\$1,185,412)
2. Adjustment of fees for additional services listed above	\$1,768,915
<b>Net increase to Professional Services Agreement for ASR #80:</b>	<b>\$ 583,503</b>

We welcome the opportunity to review this matter with you at your earliest convenience.

Sincerely,

A handwritten signature in black ink, consisting of several vertical strokes followed by a horizontal line that tapers to the right.

Andres Andujar  
Vice President

cc: Mr. Michael Sawaya, Interim Aviation Director  
Ms. Frances Sheretz, Assistant Aviation Director  
Ms. Julie Kenfield, Special Services Manager  
Ms. LeaAnn Jones, Program Controls Manager  
Mr. Rodrigo "Rod" Rodriguez, Contract Coordinator