

AN ORDINANCE 2010-12-16-1095

AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH THE SAN ANTONIO BOWL ASSOCIATION IN AN AMOUNT UP TO \$204,066.00 FOR HOSTING OBLIGATIONS ASSOCIATED WITH THE 2010 VALERO ALAMO BOWL TO BE HELD AT THE ALAMODOME IN CITY COUNCIL DISTRICT 2 ON DECEMBER 29, 2010; AUTHORIZING THE EXPENDITURE FROM THE CSEF STATE REIMBURSEMENT FUND IN ANTICIPATION OF REIMBURSEMENT FROM THE STATE UNDER THE EVENTS TRUST FUND LEGISLATION; AND APPROVING A LOCAL CONTRIBUTION OF UP TO \$116,423.00 TO THE EVENTS TRUST FUND TO QUALIFY FOR REIMBURSEMENT OF ELIGIBLE EXPENSES RELATED TO THE 2010 VALERO ALAMO BOWL.

* * * * *

WHEREAS, San Antonio and the Alamodome will host the 18th annual 2011 Valero Alamo Bowl (“Event”) on Wednesday, December 29, 2010 and since its inception in 1993, the Alamo Bowl has drawn over one million spectators and has generated in excess of \$250 million in direct economic impact; and

WHEREAS, the Event is one of the premier events that the City and the Alamodome will host this year and is expected to attract tens of thousands of visitors to the City and generate millions of dollars in economic impact and the Event will be televised nationally on ESPN, providing additional exposure for the City; and

WHEREAS, as requirements for hosting the Event, the City is responsible for buying and producing advertising (including radio, television, print and outdoor advertising), producing an economic impact study for the Event, ticketing (including ticket printing and distribution), and providing game-day operations and services (including staffing, officials, signage, and video production) and the City is seeking to enter a Professional Services Agreement (“Agreement”) with the San Antonio Bowl Association (“Association”) to provide these services for which they will be reimbursed in an amount up to \$204,066.00; and

WHEREAS, the Events Trust Fund (“Fund”) (Vernon’s Texas Civil Statutes 5190.14, Section 5C) provides a mechanism for governmental entities to receive reimbursement for expenses related to certain premiere sporting and convention events and this Ordinance proposes that the City utilize this statutory tool to recoup eligible expenses related to the 2010 Valero Alamo Bowl; and

WHEREAS, under the statutory provisions and based on the sum of the City’s eligible expenses, the City is required to remit up to \$116,423.00 to the Texas State Comptroller of Public Accounts (“Comptroller”) representing the City’s mandatory contribution to the Fund; and

WHEREAS, once the City's contribution is received, the Comptroller will deposit 6.25 times the City's contribution into the Fund; and

WHEREAS, the City will submit sales tax data to the State Comptroller related to the Event and will seek all reimbursement for eligible expenses from the Events Trust Fund allowed by law, including the costs associated with the Agreement; **NOW THEREFORE:**

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

SECTION 1. The terms and conditions of a Professional Services Agreement with the San Antonio Bowl Association, in an amount up to \$204,066.00, for services for the 2010 Valero Alamo Bowl are authorized and approved.

SECTION 2. The City Manager or her designee is authorized to sign the Agreement. A copy of the Agreement, previously executed by the Association, is attached to this Ordinance as Exhibit I.

SECTION 3. The budget in Fund 47099000, Convention Center Capital Projects, Project Definition 45-00019, Alamodome Sporting Events Improvements, WBS Element 45-00019-05-02-01, General Ledger 5201040 is reduced by \$120,000.00.

SECTION 4. The budget in Fund 47099000, Convention Center Capital Projects, Project Definition 45-00019, Alamodome Sporting Events Improvements, WBS Element 45-00019-90-01, General Ledger 6101100 is reduced by \$120,000.00.

SECTION 5. The budget in Fund 29002001, CSEF State Reimbursement, Internal Order 390000001260, From 29002001 to 45-00019-90-01, General Ledger 6102100 is reduced by \$120,000.00.

SECTION 6. The amount of \$320,489.00 is appropriated in Fund 29018000, HOT/Alamodome Improvements, Internal Order 390000001285, General Ledger 6102100 – Interfund Transfer out entitled From 29018000 to 29002001. The amount of \$204,066.00 is authorized to be transferred to Fund 29002001, CSEF State Reimbursement.

SECTION 7. The budget in Fund 29002001, CSEF State Reimbursement, shall be revised by increasing Internal Order 311000001285, General Ledger 6101100 – Interfund Transfer In entitled From 29018000 to 29002001, by the amount \$320,489.00.

SECTION 8. The amount of \$204,066.00 is appropriated in Fund 29002001, CSEF State Reimbursement, Internal Order 390000001266, General Ledger 6102100 – Interfund Transfer out entitled From 29002001 to 29006000. The amount of \$204,066.00 is authorized to be transferred to Fund 29006000, Hotel Motel Tax Fund.

SECTION 9. The budget in Fund 29006000, Hotel Motel Tax Fund, shall be revised by increasing Internal Order 311000001266, General Ledger 6101100 – Interfund Transfer In entitled From 29002001 to 29006000, by the amount \$204,066.00.

SECTION 10. The budget in Fund 29006000, Hotel Motel Tax Fund, shall be revised by increasing Cost Center 8002070001, General Ledger 5201040, by the amount \$204,066.00.

SECTION 11. Payment in an amount not to exceed \$204,066.00 is authorized to be encumbered and made payable to San Antonio Bowl Association.

SECTION 12. The remittance of up to \$116,423.00 to the Texas State Comptroller of Public Accounts for deposit in the CSEF State Reimbursement Fund is authorized and approved.

SECTION 13. City staff is directed to seek reimbursement of all for eligible expenses related to the 2010 Valero Alamo Bowl.

SECTION 14. The amount of \$116,423.00 is appropriated in Fund 29002001, CSEF State Reimbursement Fund, Cost Center 8003020001 and General Ledger 6500000. The amount of \$116,423.00 is authorized to be made payable to the Texas State Comptroller and shall be encumbered with a purchase order.

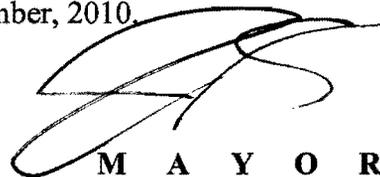
SECTION 15. Reimbursement in the amount up to \$116,423.00 received from the Texas State Comptroller of Public Accounts will be deposited in Fund 29002001, CSEF State Reimbursement Fund, Cost Center 8003020001 and General Ledger 4401190.

SECTION 16. The remaining reimbursable balance will be deposited to the original funding sources in proportion to the funds utilized to complete projects identified for this Event.

SECTION 17. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer ("CFO"), City of San Antonio. The CFO 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.

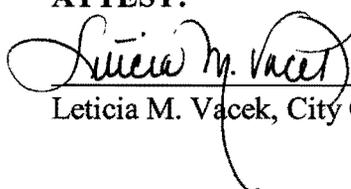
SECTION 18. This Ordinance shall be effective on and after the tenth day after passage.

PASSED AND APPROVED this 16th day of December, 2010.



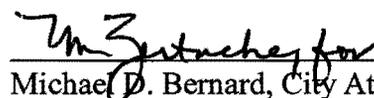
M A Y O R
Julián Castro

ATTEST:

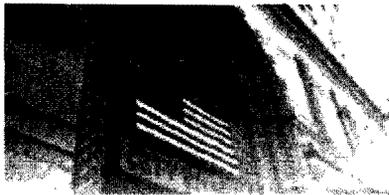


Leticia M. Vacek, City Clerk

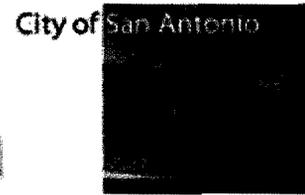
APPROVED AS TO FORM:



Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 39A

Name:	6, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20A, 20B, 22A, 22B, 24, 25A, 25B, 25C, 26, 27, 30, 31, 33A, 33B, 33D, 33E, 34, 35, 36, 37, 39A, 39B, 40, 41, 42A, 42B, 43A, 43B, 44, 45, 46, 47, 48, 49, 50						
Date:	12/16/2010						
Time:	10:30:06 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a Professional Services Agreement with the San Antonio Bowl Association in an amount up to \$204,066.00 for hosting obligations associated with the 2010 Valero Alamo Bowl to be held at the Alamodome on December 29, 2010, and authorizing the expenditure from the CSEF State Reimbursement Fund in anticipation of reimbursement from the State under the Events Trust Fund legislation.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x			x	
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

Exhibit I

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF SAN ANTONIO
AND
SAN ANTONIO BOWL ASSOCIATION**

This Professional Services Agreement ("Agreement") is entered into and executed by and between the City of San Antonio, Texas, a home-rule municipality situated within Bexar County, Texas ("CITY"), acting by and through its City Manager, pursuant to Ordinance No. 2010-12-16-_____, passed and approved on December 16, 2010, and San Antonio Bowl Association ("AGENCY"), acting by and through its duly authorized official, and witness their Agreement as follows:

I.

APPOINTMENT

The Director of the Convention, Sports and Entertainment Facilities Department, or his designee, shall administer this Agreement for CITY. In consideration of payment of a sum not to exceed two hundred and four thousand sixty-six dollars and no cents (\$204,066.00) and other obligations hereinafter undertaken on part of CITY, the AGENCY agrees to act on behalf of CITY for the 2010 Valero Alamo Bowl ("Event") to be held on December 29, 2010, at the Alamodome by (i) advertising the event; (ii) providing an economic impact study for the event; (iii) providing game day services for the event; and (iv) providing ticketing services for the Event. It is agreed that any marketing conducted by the AGENCY pursuant to this Agreement shall complement, to the extent possible, the marketing efforts of the CITY'S Convention, Sports and Entertainment Facilities Department in order to prevent the duplication of efforts and promote efficiency. All services provided by AGENCY pursuant to this Agreement shall substantially conform to generally accepted standards that are usual and customary between client and promotion agencies in similar relationships.

II.

TERM OF AGREEMENT

The term of this Agreement shall commence December __, 2010, and end January 30, 2011, unless terminated sooner if the CITY reasonably determines that AGENCY has not exercised its best efforts to perform its duties under the Agreement and AGENCY has been informed of such and has failed to satisfactorily renew its efforts within a reasonable time thereafter.

III.

DUTIES OF AGENCY

In the execution of its duties, the AGENCY shall perform activities including, but not limited to the following:

- 3.1 Procure and produce advertising, which shall include, but not be limited to, radio, television, print, social and outdoor advertising and all costs associated with creative, placement, production, trafficking, etc.
- 3.2 Procure and produce an economic impact study.
- 3.3 Procure and provide game day operations, including but not limited to staffing, officials, signage, video production, game day services and radios.
- 3.4 Procure and provide ticket systems, which shall include, but not be limited to, ticket printing, and all costs associated with ticket distribution, ticket credit card processing and service charge fees, box office fees, etc.

IV.

ALLOWABLE EXPENSES

The types of AGENCY costs which shall be considered for payment by CITY shall be limited to costs associated with: the creation, production, placement and trafficking of radio, television, print social and outdoor advertising; costs associated with the production of an economic impact survey; costs associated with game day operations, including but not limited to, staffing, officials, signage, video production, and game day services; and costs associated with ticketing services, including but not limited to, ticket printing, ticket distribution, ticket credit card processing and service charge fees, Ticketmaster fees, box office fees, etc. AGENCY shall use its best efforts to secure competitive prices for all allowable expenses.

V.

BILLINGS

AGENCY shall submit a written invoice/s to the Convention, Sports and Entertainment Facilities Department supported by photocopies of all applicable invoices and/or receipts. Upon receipt, CITY agrees to pay AGENCY's invoice/s in accordance with the Texas Prompt Pay Statute should CITY find that such invoice/s represents an allowable expense under this Agreement, as defined by Article IV above.

VI.

MEETINGS

Upon request by one party hereto, the other party agrees to meet at such time and place as agreed to by both parties.

VII.

REPORTS

AGENCY shall submit, upon request, written reports to the Convention, Sports and Entertainment Facilities Department detailing accomplishments and work in progress related to this Agreement.

VIII.

EXAMINATION OF AGENCY RECORDS

All contracts, correspondence, books, accounts, and other information relating directly to the AGENCY's performance of its obligations for the CITY under this Agreement, or to the expenses incurred on the CITY's behalf, shall be open to inspection and examination at the offices of the AGENCY by an authorized representative of CITY during the AGENCY's regular business hours.

IX.

LIABILITY OF AGENCY TO THIRD PARTIES AND TO CITY

AGENCY shall be solely responsible to parties with whom it shall deal in carrying out the terms of this Agreement and shall save CITY harmless against all claims of whatever nature asserted by third parties in carrying out the terms hereof.

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

EMPLOYEES, DIRECTORS AND REPRESENTATIVES. THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF CITY, ITS ELECTED OFFICIALS, OFFICERS OR EMPLOYEES. IN THE EVENT CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

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

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

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

X.

POLITICAL ACTIVITIES

No funds provided from or through CITY shall be contributed to or used for, in whole or in part, the conduct of political activities or for the benefit of any candidate for elective public office, partisan or non-partisan, nor shall the personnel involved in the administration of any CITY funded activity be required by the AGENCY to work for or on behalf of any partisan or non-partisan political activity or candidate. AGENCY shall be restricted from using the funds provided by the CITY for campaigning or other political purposes.

XI.

CONFLICT OF INTEREST

AGENCY acknowledges that it is informed that the City of San Antonio Ethics Ordinance prohibits contracts between the CITY and any local public official, such as a CITY officer or employee, and that the prohibition extends to an officer or employee of CITY agencies, such as city-owned utilities and certain CITY boards and commissions, and to contracts involving a business entity in which the official has a substantial interest, as defined by Texas law, if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity. AGENCY certifies (and this Agreement is made on reliance thereon) that neither it, its individual officers, employees or agents, nor any person having a substantial interest in this Agreement, is an officer or employee of the CITY or any of its agencies.

XII.

COMPLIANCE WITH LAWS

AGENCY agrees to comply with all applicable federal, state and local laws in the performance of its duties and services under this Agreement.

XIII.

MINORITY BUSINESS ENTERPRISE PROGRAM

AGENCY is hereby advised that it is the policy of the City of San Antonio that Small, Minority or Woman-owned Business Enterprises shall have the maximum practical opportunity to participate in the performance of public contracts. AGENCY agrees that it will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin or disability and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, age or disability. AGENCY further agrees that it will abide by all applicable terms and provisions of City's Non-Discrimination Policy, City's Small, Minority or Woman-owned Business Advocacy

Policy and City's Equal Opportunity Affirmative Action policy, these policies being available in City's Department of Economic Development and the City Clerk's Office.

XIV.

NON-DISCRIMINATION

Discrimination on account of race, color, sex, age, religion, handicap or national origin, directly or indirectly, in employment or contracting practices or in the use of contract funds is strictly prohibited.

XV.

ASSIGNMENT

This Agreement is personal to AGENCY. AGENCY shall not assign this Agreement, but may subcontract, in part, the duties hereunder.

XVI.

AMENDMENTS

No amendment, modification, or alteration of the terms hereunder shall be binding unless the same be in writing, dated subsequent to the date hereof, duly executed by the parties hereto and authorized by the passage of an ordinance by the City Council of the City of San Antonio, if required.

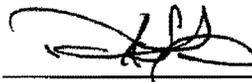
The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they are acting herein.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH SHALL HAVE THE FULL FORCE AND EFFECT OF AN ORIGINAL, BUT BOTH OF WHICH TOGETHER SHALL CONSTITUTE ONE INSTRUMENT, THIS THE _____ DAY OF DECEMBER, 2010.

CITY OF SAN ANTONIO

SAN ANTONIO BOWL ASSOCIATION

BY: _____
SHERYL L. SCULLEY
City Manager

BY:  _____
DERRICK S. FOX
President/CEO

APPROVED AS TO FORM:

ATTEST: _____
City Clerk

City Attorney