

AN ORDINANCE 2007-11-01-1143

AUTHORIZING A \$244,870.00 CONTRACT WITH CRITICAL PATH, INC. TO DEVELOP A SAFETY MANAGEMENT SYSTEM MANUAL AND PROGRAM FOR SAN ANTONIO INTERNATIONAL AIRPORT; FUNDING THE CONTRACT WITH \$200,000.00 FROM A PREVIOUSLY RECEIVED FAA GRANT AND APPROPRIATING THE GRANT; APPROPRIATING \$66,667.00 IN THE AIRPORT CAPITAL IMPROVEMENT FUND AS THE CITY'S MATCHING SHARE FOR A TOTAL PROJECT AUTHORIZATION OF \$266,667.00 OF WHICH \$21,797.00 IS APPROVED FOR CONTINGENCY COSTS.

* * * * *

WHEREAS, in September 2007, the City accepted a Federal Aviation Administration (FAA) Airport Improvement grant in the amount of \$200,000.00, which was appropriated through Ordinance No. 2007-08-30-0912, to participate in the FAA's Safety Management Systems Airport Pilot Study; and

WHEREAS, the City subsequently issued a Request for Qualifications (RFQ) for Safety Management Systems Manual and Program Plan Development Consulting Services; and

WHEREAS, an evaluation committee consisting of aviation staff was formed and found Critical Path, Inc. to be the most qualified respondent out of four respondent companies that submitted under the RFQ; and

WHEREAS, it is now necessary to enter into a Professional Services Agreement with Critical Path for the amount of \$244,870.00; **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 the attached Professional Services Agreement with Critical Path, Inc.

SECTION 2. The amount of \$66,667.00 is appropriated in SAP Fund 51013000, Capital Improvement Funds, SAP WBS AV-00006-01-02-08, SAP GL account 6102100 – Interfund Transfer out entitled Transfer to 33-00037-90-02. The amount of \$66,667.00 is authorized to be transferred to SAP Fund 51099000.

SECTION 3. The budget in SAP Fund 51099000, SAP Project Definition 33-00037, SMS Pilot Study, shall be revised by increasing SAP WBS element 33-00037-90-02 entitled Trf Fr AV-00006-01-02-08, SAP GL account 6101100 – Interfund Transfer In, by the amount \$66,667.00.

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11/01/07
Item No. 17

SECTION 4. The budget in SAP Fund 51099000, Airport Capital Projects, SAP Project Definition 33-00037, SMS Pilot Study, shall be revised by decreasing SAP WBS Element 33-00037-01-05 entitled Unallocated Appropriations, SAP GL Account 5406530, by the amount of \$200,000.00.

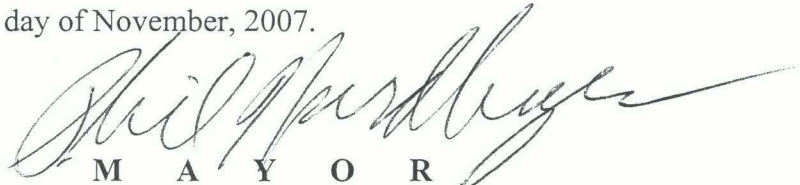
SECTION 5. The amount of \$244,870.00 is appropriated in SAP Fund 51099000, Airport Capital Projects, SAP Project Definition 33-00037, SMS Pilot Study, SAP WBS Element 33-00037-01-02, entitled Critical Path, Inc., SAP GL Account 5201040, and is authorized to be encumbered and made payable to Critical Path.

SECTION 6. The amount of \$21,797.00 is appropriated in SAP Fund 51099000, Airport Capital Projects, SAP Project Definition 33-00037, SMS Pilot Study, SAP WBS Element 33-00037-01-03, entitled Critical Path Contingency, SAP GL Account 5406530, and is authorized to be encumbered for project contingency.

SECTION 7. 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.

SECTION 8. This Ordinance shall take effect immediately upon passage by eight (8) affirmative votes; otherwise it shall be effective ten (10) days after its passage.

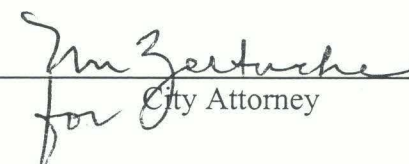
PASSED AND APPROVED this 1st day of November, 2007.



M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney



CMS or Ordinance Number: CN4600006752

TSLGRS File Code: 1000-25

Document Title:
CONT - Develop a Safety Management System
Manual and Program

Commencement Date:

12/10/2007

Expiration Date:

12/10/2012

**PROFESSIONAL SERVICES AGREEMENT
FOR
SAFETY MANAGEMENT SYSTEMS MANUAL AND PROGRAM PLAN
DEVELOPMENT CONSULTING SERVICES**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio (hereinafter referred to as "City"), a Texas Municipal Corporation acting by and through its City Manager, pursuant to Ordinance No. 2007-11-01-1143 passed and approved on the 1st day of November, 2007 and Critical Path, Inc. (hereinafter referred to as "Consultant") acting by and through its authorized officers of pursuant to a resolution of its board of directors, both of which may be referred to herein collectively as the "Parties".

The Parties hereto 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. DEFINITIONS

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

- "City" is defined in the preamble of this Agreement and includes its successors and assigns.
- "Consultant" is defined in the preamble of this Agreement and includes its successors.
- "Director" shall mean the acting director of City's Aviation Department.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on November 1, 2007 and terminate upon project completion but complying with the timeline set out in Exhibit 1-B. In the event that the City needs additional time to provide required input to Consultant, the City, acting through the Aviation Director, shall have the authority to extend the time of this contract for such additional period necessary for the City to provide such required input.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

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produced by Consultant pursuant to the provisions of this Agreement is the exclusive property of City; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.

5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Consultant to return said documents to City prior to or at the conclusion of said retention.

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

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by City upon 15 calendar days written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided

7.8 Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant or any of its subcontractors pursuant to this Agreement.

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

VIII. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Mark Webb, Director
Aviation Department
9800 Airport Boulevard
San Antonio, TX 78216

If intended for Consultant, to:

Critical Path, Inc.
Attn: Jessica Domitrovich
4977 39th Avenue S.
Fargo, ND 58104

IX. [Reserved]

X. INSURANCE

10.1 Prior to the commencement of any work under this Agreement, Consultant shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Aviation Department, which shall be clearly labeled: "SMS Plan Consulting Services" in the Description of Operations block of the Certificate. The original Certificate(s)

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

City of San Antonio
 Attn: Aviation Department
 P.O. Box 839966
 San Antonio, Texas 78283-3966

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

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
- 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.

10.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

11.2 It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by CONSULTANT to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. CONSULTANT further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

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

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

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

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Consultant shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

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

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

XVI. AMENDMENTS

Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

XVII. SEVERABILITY

If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVIII. LICENSES/CERTIFICATIONS

Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XIX. COMPLIANCE

Consultant shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XX. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be

XXVI. ENTIRE AGREEMENT

This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

EXECUTED and AGREED to as of the dates indicated below.

CITY OF SAN ANTONIO

CONSULTANT

(Insert name of Consultant)

Critical Path, Inc.

PP Fern
(Signature)

Jessica Dimitrovich
(Signature)

Printed Name: Penny P. Ferguson
Title: Asst-city mgr.
Date: 11/20/07

Printed Name: Jessica Dimitrovich
Title: President
Date: 10-25-07

Approved as to Form:

David Sanchez
City Attorney

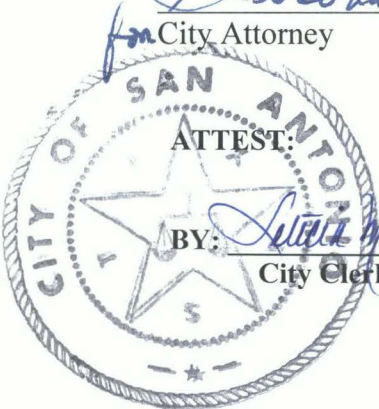


EXHIBIT 1A

SCOPE OF WORK

TASK 1.0: SMS Education – Workshop I

What is SMS? What must the San Antonio International Airport do in order to comply with the FAA requirement for SMS at their airports? Why do SMS? What are the “do-nothing” risks? How much does SMS cost? If I do SMS, what can I expect in return? How long will it take to implement SMS?

SMS is a “top-down” process – senior management commitment to SMS is critical to its success. The CPI Team believes that the first task is to “educate” the senior airport managers about SMS. Our approach will be to undertake this educational process as a first step towards gaining a better understanding of SMS. In this task the CPI Team will complete the process of educating senior management about who is involved, what SMS accomplishes, what are the goals of a SMS, what are the features of a SMS, how SMS works, and how it will affect SAT.

DELIVERABLE:

- The CPI Team will prepare and deliver an informational briefing on SMS to the airport’s Senior Management – Airport Director and Department Supervisors. The presentation will be a Power Point guided discussion and directed readings.

TASK 2.0: Gap Analysis

The objective of the gap analysis is to determine what differences exist between the airports current safety programs and those needed to support SMS. The CPI Team believes there are existing systems, policies, practices, and procedures working today in the various departments of the airport. We will identify those activities that are useful in the development of the airport's SMS. The CPI Team will review the airports current ACM, MOU's/MOA's, Construction Manual, SMGCS Plan, AEP, and any other relevant documents to find those activities. Additionally, the CPI Team will interview relevant staff about issues such as “Just Culture” and other personnel procedures that will help or hinder SMS implementation.

Once the gaps are identified and measured, they will provide a foundation for understanding the degree of difficulty and the amount of investment in money and human resources that will be required to achieve the goal of full, system-wide implementation of an effective, yet practical SMS program at SAT.

The CPI Team will identify the airport's complying (existing) conditions and the non-complying conditions. The CPI Team will then draft their findings in a memo to the Airport. The Airport and the FAA will have one week to review the gap analysis findings and provide their comments to the CPI Team.

Once the CPI Team receives the comments from the Airport and the FAA, the Team will prepare for the second workshop that will be conducted at the Airport. During Workshop II, the CPI Team will review the Gap Analysis with the Airport staff members that are involved in the development of SMS. The Team will spend the remainder of the Workshop presenting alternatives and approaches to the Airport. This is where the Team and the Airport will begin working on and formulating the issues to be included in the Draft SMS Plan. After the CPI Team and the Airport have completed Workshop II, the Team will submit the Final Gap Analysis at the end of Week 8.

DELIVERABLES:

- The CPI Team will conduct a gap analysis of the SAT's complying and non-complying conditions and deliver a Draft Findings Memo to the Airport for review during Week 5.
- The CPI Team will conduct Workshop II with the Airport to review the Draft Gap Analysis and begin working on alternatives and approaches to the development of the Airports Draft SMS Plan during Weeks 7 and 8.
- The CPI Team will submit a Final Gap Analysis report to the Airport on the Team's findings at the end of Week 8.

TASK 3.0: DRAFT SMS Plan

Upon completion of the gap analysis, the CPI Team will prepare a Draft SMS Plan for review by the Airport and FAA. The Draft SMS Plan will begin to provide a detailed road map for SMS implementation at the airport, essentially a "SMS Implementation Plan (SMSIP)." The Airport's SMS Plan defines the processes, practices, and procedures for the Airport as it implements and operates the system of safety practices. The SMS Plan will identify the following subjects:

1. Safety Policy and Objectives
 - a. SAT safety policy statement
 - b. Senior management commitment
 - i. Visible
 - ii. Communication
 - c. Safety management policies and practices
 - i. Ways to communicate policies, practices, and procedures
 - d. Identify stakeholders in the SAT SMS
 - i. Chief stakeholders
 - ii. Secondary stakeholders

- e. Set clearly stated, realistic goals for SMS at SAT
 - i. Determine goal setting process
 - ii. Set goals for 2007-2008
 - iii. Determine system to measure goals and set new ones annually
 - f. Identify roadblocks to successful implementation of SMS at SAT
 - i. Personnel Policies
 - ii. Labor Agreements
 - iii. FAA Enforcement Issues
 - iv. Others
 - g. Develop a Safety Culture / Just Culture at SAT
 - i. Background
 - ii. SAT Safety Culture Commitment Statement
 - iii. Safety Culture Actions and Activities
 - h. Develop an SMS organizational structure
 - i. Current airport organizational chart
 - ii. Airport SMS organizational chart
 - iii. Responsibilities and accountabilities of Top Management
 - iv. Responsibilities and accountabilities of Safety Manager
 - v. Responsibilities and accountabilities of Department Heads
 - vi. Responsibilities and accountabilities of Safety Committee
 - vii. How will information flow throughout SMS organizational structure
2. Safety Risk Management (SRM)
- a. Safety Occurrence Data Gathering
 - i. Data Issues
 - 1. Short-term data solutions
 - 2. Long-term data solutions
 - b. Develop Five Phases of SRM
 - i. Systems Description
 - ii. Hazard Identification
 - 1. How to identify hazards
 - 2. Who should report hazards
 - 3. How are hazards reported
 - 4. What hazards are reported
 - iii. Risk Identification
 - 1. How to identify risk
 - iv. Risk Analysis / Assessment
 - 1. Who does risk analysis / assessment
 - 2. How is it done
 - v. Treatment Strategies
 - 1. How to develop strategies

- 2. Implementing changes
 - 3. Tracking changes for effectiveness
 - c. SRM Recordkeeping Procedures
 - i. Features of a good reporting system
 - ii. How to set up a report recording system
 - 1. Non-punitive confidential hazard reporting system
 - 2. Formal and informal meetings
 - 3. Feedback from management about action taken as a result of hazard reporting or safety meetings
 - iii. Documentation of safety reviews and evaluations
- 3. Safety Promotion
 - a. Identify Training Needs
 - i. Who will receive training
 - ii. What type of training will staff receive
 - iii. When will training occur
 - b. Identify Training Programs
 - i. New Employee Training
 - ii. Basic SMS Employee Training
 - iii. Senior Management Training
 - iv. Technical Staff SMS Training
 - v. Other Stakeholder Training
 - vi. Recurrent Training
 - vii. Special Training
 - c. Training Feedback Mechanisms
 - i. Competency
 - ii. Training Improvements
 - d. Safety Communication
 - i. Bulletins
 - ii. Special activities
 - iii. Safety programs
 - e. Safety Awareness Activities
 - i. Physical activities where SAT can promote safety at the Airport and in the aviation community
- 4. Safety Assurance
 - a. Resources needed to make SMS work
 - i. Time
 - ii. Money
 - iii. Staff
 - b. Auditing

- i. Internal Audit Team Members
 - ii. Internal Audit Team Training
 - iii. External Audits
 - iv. Documenting audit reports
- c. FAR Part 139 Integration
 - i. Ways to integrate or weave other Part 139 processes into SMS
 - ii. Identify other applications of SMS at airport
 - 1. Security
 - 2. Landside
 - 3. Terminal
- d. SMS Implementation
 - i. Development / implementation schedule
 - 1. Year 2007-08 Detailed Schedule
 - 2. SMS 5-Year Implementation and Training Schedule
 - ii. Schedule of Anticipated Costs

DELIVERABLES:

- The CPI Team will prepare a Draft SMS Plan that includes all of the issues identified above.
- The CPI Team will travel to the Airport to hold Workshop III. The task of Workshop III is for the CPI Team to walk the Airport and the FAA through the Draft SMS Plan. The Airport and the FAA will then have two weeks to review the Draft SMS Plan and submit their comments to the CPI Team for final revisions.

TASK 4.0: Final SMS Plan

Upon completion of the Airport and FAA's review of the Draft SMS Plan, the CPI Team will make the appropriate revisions and complete the Final SMS Plan. After development of the Draft SMS Plan, the CPI Team will deliver a Final SMS Plan to the City of San Antonio that will meet, at a minimum, the items stated in FAA AC 150/5200-37, *Introduction to SMS for Airport Operators*, and the *Safety Management System (SMS) Pilot Study Participant's Guide*, dated April 6, 2007.

DELIVERABLES:

- The CPI Team will deliver twenty (20) bound copies and one (1) complete electronic copy on CD of the Final SMS Plan to the City of San Antonio.
- The CPI Team will deliver up to two (2) presentations on the Final SMS Plan to the City Council or other meetings as directed by the Aviation Department.

EXHIBIT 3

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM POLICY

It is the policy of the City of San Antonio to involve qualified Small, Minority, African-American, Woman-owned, and local business enterprises to the greatest extent feasible in the City's construction, procurement, professional services, and leases and concessions contracting. Per Ordinance #69403, the City of San Antonio, its employees, contractors, and subcontractors shall not discriminate on the basis of race, color, religion, national origin, sex, age, or handicap in the award and performance of contracts. Violation of this ordinance is a criminal offense and subject to penalty.

It is the policy of the City of San Antonio that disadvantaged business enterprises (DBEs), as defined under 49 CFR Part 26, shall have "equality of opportunity" to participate in the awarding of federally-assisted Aviation Department contracts and related subcontracts, to include sub-tier subcontracts. This policy supports the position of the U.S. Department of Transportation (DOT) in creating a level playing field and removing barriers by ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with federal funds under this contract. Therefore, on all DOT-assisted projects the DBE program requirements of 49 CFR Part 26 apply to the contract.

The Bidder/Contractor agrees to employ good-faith efforts (as defined in the Aviation Department's DBE Program) to carry out this policy through award of subcontracts to disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of the Aviation Department Contract, and/or the utilization of DBE suppliers where feasible. Aviation Department bidders/contractors are expected to solicit bids from available DBE's on contracts which offer subcontracting opportunities.

Bidder/Contractor specifically agrees to comply with all applicable provisions of the Aviation Department's DBE Program. The DBE Program may be obtained through the airport's DBE Liaison Officer at (210) 207-3505 or by contacting the City's Aviation Department.

The Contractor shall maintain records, as specified in the audit and records section of the contract, showing: (i) all subcontract/supplier awards, specifically awards to DBE firms; (ii) specific efforts to identify and award such contracts to DBEs; and (iii) submit when requested, copies of executed contracts to establish actual DBE participation.

The Contractor shall agree to submit periodic reports of subcontract and/or supplier awards to DBE firms in such form and manner and at such times as the Aviation

Department shall prescribe and shall provide access to books, records, and accounts to authorized officials of the City, Aviation Department, state, and/or federal agencies for the purpose of verifying DBE participation and good-faith efforts to carry out the DBE Policy and Program. All Aviation Department contractors may be subject to a post contract DBE audit. Audit determination(s) may be considered and have a bearing in the evaluation of a Contractor's good-faith efforts on future airport contracts.

All construction Bidders/Contractors with contracts subject to formal review and approval shall make good-faith efforts (as defined and approved by the City through the Aviation Department in its DBE Program) to subcontract and achieve the applicable contract specific DBE goal with certified DBEs. Contractors failing to achieve the applicable contract specific DBE goal or contractors failing to maintain the specific DBE goal percentage involvement initially achieved, will be required to provide documentation demonstrating that they have made good-faith efforts in attempting to do so through the submittal of an Aviation Department approved "*DBE Good-Faith Effort Plan*". *Bidders are required to satisfy applicable DBE program requirements prior to the award of the Aviation Department contract.* Bidders must submit a *DBE Good-Faith Effort Plan* or will be considered non-responsive.

A Bidder/Contractor may count towards its DBE utilization sixty percent (60%) of its expenditures for materials and supplies required under a contract and obtained from a regular dealer, and one hundred percent (100%) of such expenditures to a DBE manufacturer. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Bidder or Contractor.

The City and Aviation Department encourages the Bidder/Contractor to utilize currently approved and certified DBE firms on the contract for DBE utilization achievement and credit purposes. The Aviation Department utilizes the services of the South Central Texas Regional Certification Agency (SCTRCA) to certify DBE eligibility status. Please contact the SCTRCA at 305 E. Euclid, Suite 102, San Antonio, Texas 78212 (210/227-4722) for information regarding DBE trade areas or to apply for DBE status. The Aviation Department accepts DBE certification from any one of the five (5) certifying agencies under the Texas Unified Certification Program (TUCP) – Texas Department of Transportation (TxDOT), North Central Texas Regional Certification Agency (NCTRCA), South Central Texas Regional Certification Agency (SCTRCA), City of Houston, and the Corpus Christi Regional Transportation Authority.

Submittal of DBE status certification information for **all** DBE firms utilized or proposed to be utilized on the project as subcontractors, sub-consultants, or vendors, to include prime contractors when applicable, in the performance of work on said project. Additionally, apparent qualified low bidder prime contractors must submit an executed "Letter of Intent" form for **each** subcontractor within 3 business days of notification to the Aviation Department's DBE office prior to award of contract.

The following DBE-related contractual clause shall be applicable and is specifically included as part of the construction contract. Contractors shall also include this clause in each subcontract the prime contractor signs with a subcontractor.

“The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate”.

Additionally, Contractors agree to the following prompt payment and retainage payment clause:

“The Prime Contractor agrees to pay each subcontractor under this Prime Contract for satisfactory performance of its Contract no later than thirty (30) days from the receipt of each payment the Prime Contractor receives from the City of San Antonio. The Prime Contractor further agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval from the City of San Antonio. This Clause applies to both DBE and non-DBE subcontractors”.

All changes to the list of subcontractors submitted with the bid and approved by the City or Aviation Department, including major vendors, shall be submitted for review and approval by the Aviation Department’s DBE Liaison Office. DBE Form 3, *Change of Subcontractors/Suppliers* is to be completed and submitted to Aviation Department officials for approval when adding, changing, or deleting subcontractors on airport projects. *Contractors shall make a good-faith effort to replace DBE subcontractors unable to perform on the contract with another DBE.*

Failure or refusal by a Bidder or Contractor to comply with the DBE provisions herein or any applicable provisions of the DBE Program, either during the bid process or at any time during the term of the Contract, may constitute a material breach of Contract, whereupon the Contract, at the option of the Aviation Department, may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be debarred from further contracts with the City of San Antonio.

Notification is hereby given that a DBE contract specific goal has NOT been established on this bid/contract. ALL FORMS WILL BE PROVIDED WHEN NEEDED.

DM



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