

AN ORDINANCE 2009-04-30-0317

AUTHORIZING A CONTRACT WITH INX, INC., TO PROVIDE THE PUBLIC WORKS DEPARTMENT WITH AUDIO-VISUAL EQUIPMENT TO MONITOR AND TROUBLESHOOT TRAFFIC CONDITIONS REMOTELY FROM THE TRAFFIC MANAGEMENT CENTER, FOR A TOTAL COST OF \$141,390.50.

* * * * *

WHEREAS, the Public Works Department requires audio visual equipment to monitor and trouble shoot traffic conditions remotely from the Traffic Management Center; and

WHEREAS, this equipment is available from INX, Inc., utilizing The Cooperative Purchasing Network (TCPN) contract R4825; and

WHEREAS, the use of this TCPN contract will give the City a fully integrated traffic signal system with a communications network designed for consistent, reliable connectivity to support the City's traffic signal system; **NOW THEREFORE**,

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

SECTION 1. The offer of INX, Inc., under The Cooperative Purchasing Network, in the amount of \$141,390.50, to provide the City of San Antonio with audio visual equipment to monitor and trouble shoot traffic conditions remotely from the Traffic Management Center, is hereby approved. A copy of the TCPN Contract with INX, Inc., addendum and bid tabulation are attached hereto and incorporated herein as **Attachment 1**.

SECTION 2. The amount of \$141,390.50 is available in SAP project 23-01085-05-02-01, general ledger 5201040, and is to be encumbered with a purchase order made payable to INX, Inc.

SECTION 3. 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 4. This Ordinance shall be effective on the tenth day after passage.

PASSED AND APPROVED this 30th day of April, 2009.



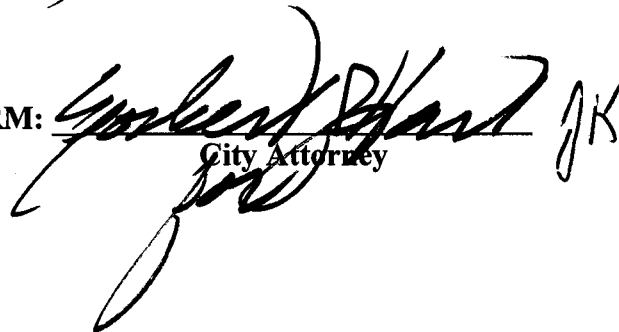
M A Y O R

PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney JK

Agenda Item:	12 (in consent vote: 11, 12, 13, 14, 19, 20, 22, 23, 25A, 25C, 25D, 25E, 27, 29, 32, 33, 34, 36, 37)						
Date:	04/30/2009						
Time:	02:40:58 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a contract with INX, Inc., to provide the Public Works Department with audio-visual equipment to monitor and troubleshoot traffic conditions remotely from the Traffic Management Center, for a total cost of \$141,390.50. [Sharon De La Garza, Assistant City Manager; Janie Cantu, Director, Purchasing & General Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				x
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4	x					
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

City of San Antonio Bid Tabulation

Opened: February 27, 2009		TCPN	
For: Traffic Management Center Audio Visual Upgrades		INX, Inc.	
09-083		WF	1955 Lakeway Drive, Suite 220 Lewisville, TX 75057 210-340-2009
Item	Description	Qty	
<u>TRAFFIC CONTROL ROOM DISPLAY SYSTEM</u>			
1	RGB Spectrum MediaWall 2000 Video Processor	1	
	Price Each		\$25,995.00
	Price Total		\$25,995.00
2	RGB Spectrum Edge-Blending Kit	3	
	Price Each		\$2,672.25
	Price Total		\$8,016.75
3	EXTRON MAVPlus 4848 Composite Video Matrix Switch	1	
	Price Each		\$8,398.95
	Price Total		\$8,398.95
4	EXTRON RGB1212 Crosspoint RGBHV Matrix Switch	1	
	Price Each		\$7,822.50
	Price Total		\$7,822.50
5	EXTRON PIP-444 Video Quad Splitter	3	
	Price Each		\$2,782.50
	Price Total		\$8,347.50
6	SANYO PLC-ET30L Projector	3	
	Price Each		\$5,445.00
	Price Total		\$16,335.00
7	SANYO Short-Throw Lens for PLC-ET30L	3	
	Price Each		\$1,855.00
	Price Total		\$5,565.00
8	SANYO Spare Lamps	3	
	Price Each		\$445.00
	Price Total		\$1,335.00
9	SONY Pro DVD Player	1	
	Price Each		\$135.45
	Price Total		\$135.45
10	EXTRON AVT-100N NTSC Tuner	3	
	Price Each		\$483.00
	Price Total		\$1,449.00
11	EXTRON MDA 3AV Audio/Video Distribution Amplifier	2	
	Price Each		\$215.00
	Price Total		\$430.00
12	EXTRON MSW 4V rs Composite Video Switcher	2	
	Price Each		\$305.00
	Price Total		\$610.00

City of San Antonio Bld Tabulation

Opened: February 27, 2009		TCPN	
For: Traffic Management Center Audio Visual Upgrades		INX, Inc.	
09-083		WF	1955 Lakeway Drive, Suite 220 Lewisville, TX 75057 210-340-2009
Item	Description	Qty	
13	DA-LITE Perm-Wall Front Projection Screen	1	
	Price Each		\$1,525.00
	Price Total		\$1,525.00
14	BI-AMP Nexia Mixer	1	
	Price Each		\$1,725.75
	Price Total		\$1,725.75
15	CROWN 180MA Amplifier	1	
	Price Each		\$415.00
	Price Total		\$415.00
16	AUDIO-TECHNICA Wireless MIC System	1	
	Price Each		\$700.00
	Price Total		\$700.00
17	JBL Control 24CT ceiling Speaker Assemblies	12	
	Price Each		\$104.00
	Price Total		\$1,248.00
18	ATLAS SOUNDOLIER Wall Attenuators	2	
	Price Each		\$65.00
	Price Total		\$130.00
19	CRESTRON Integrated Control System	1	
	Price Each		\$8,825.00
	Price Total		\$8,825.00
20	TRIPP LITE Rack-mount Surge protector/power strip	1	
	Price Each		\$175.00
	Price Total		\$175.00
	TOTAL TRAFFIC CONTROL ROOM DISPLAY SYSTEM		\$99,183.90
	<u>TRAFFIC CONTROL CONFERENCE ROOM AV SYSTEM</u>		
21	NEC 60XP10 60" Plasma Monitor	1	
	Price Each		\$4,995.00
	Price Total		\$4,995.00
22	Tilt/Wall Mount for NEC 60" Plasma	1	
	Price Each		\$355.25
	Price Total		\$355.25
23	SONY Pro DVD Player	1	
	Price Each		\$139.35
	Price Total		\$139.35

City of San Antonio Bld Tabulation

Opened: February 27, 2009		TCPN	
For: Traffic Management Center Audio Visual Upgrades		INX, Inc.	
09-083		WF	1955 Lakeway Drive, Suite 220 Lewisville, TX 75057 210-340-2009
Item	Description	Qty	
24	CROWN 160MPA Amplifier	1	
	Price Each		\$355.35
	Price Total		\$355.35
25	JBL Ceiling Speaker Assemblies; 5 Speakers	5	
	Price Each		\$105.00
	Price Total		\$525.00
28	ATLAS Soundolier Wall Attenuator	1	
	Price Each		\$68.00
	Price Total		\$68.00
27	DA-LITE 6' Wide Boardroom Electrol Motorized Screen (Sheetrock Trim not included)	1	
	Price Each		\$1,674.75
	Price Total		\$1,674.75
28	SANYP PLC-XU-105 LCD Projector	1	
	Price Each		\$2,203.95
	Price Total		\$2,203.95
29	TRIPP LITE Rack-mount Surge protector/power strip	1	
	Price Each		\$175.00
	Price Total		\$175.00
30	4' wide Wood Veneer Executive Conference Unity with TS400 Interactive Markerboard	1	
	Price Each		\$2,350.95
	Price Total		\$2,350.95
	TOTAL TRAFFIC CONTROL CONFERENCE ROOM A/V SYSTEM		\$12,842.60
	<u>MATERIAL, LABOR AND MISCELLANEOUS ITEMS</u>		
31	Miscellaneous cables, connectors, jacks and other consumables	1	
	Price Each		\$3,135.00
	Price Total		\$3,135.00
32	Equipment Installation Services	154	
	Price Per Hour		\$75.00
	Price Total		\$11,550.00
33	Installation of OFE Tandberg VTC System	24	
	Price Per Hour		\$105.00
	Price Total		\$2,520.00
34	CRESTRON Custom System Programming	60	
	Price Per Hour		\$115.00
	Price Total		\$6,900.00

City of San Antonio Bid Tabulation

Opened: February 27, 2009		TCPN	
For: Traffic Management Center Audio Visual Upgrades		INX, Inc.	
09-083		WF	1955 Lakeway Drive, Suite 220 Lewisville, TX 75057 210-340-2009
Item	Description	Qty	
35	BONDING REQUIREMENTS	1	
	Price Each		\$3,335.00
	Price Total		\$3,335.00
36	SHIPPING & HANDLING	1	
	Price Each		\$1,924.00
	Price Total		\$1,924.00
	TOTAL MATERIAL, LABOR AND MISCELLANEOUS ITEMS		\$29,364.00
	Estimated Total		\$141,390.50
	Estimated Total Award		\$141,390.50



CITY OF SAN ANTONIO

P.O. Box 839966
SAN ANTONIO, TEXAS 78283-3966

ADDENDUM I

SUBJECT: Overlay Agreement, 09-083 WF, Traffic Management Center Audio Visual Upgrades, date of issue February 26, 2009.

FROM: Norbert Dziuk, Purchasing & Contract Administrator

DATE: April 1, 2009

This notice shall serve as Addendum No. I to the above-referenced Overlay Agreement and shall become part of the original Terms and Conditions package and must be returned with overlay agreement.

THE ABOVE MENTIONED OVERLAY AGREEMENT IS HEREBY AMENDED AS FOLLOWS:

1. Page 13 of 51 (Page 1 of SOW): After the first paragraph of the Statement of Work insert this sentence: "Should the terms and conditions of this statement of work conflict with the terms and conditions of City Contract No. 09-083, issued on February 26, 2009, the terms and conditions of the City Contract No. 09-083 shall control."
2. Page 18 of 51 (Page 6 of SOW): Item 8: Additional Terms, Section C: Non-Solicitation Provision. This Section C is to be deleted in its entirety.
3. Page 18 of 51 (Page 6 of SOW): Item 8: Additional Terms, Section E: Force Majeure. In the last sentence reference "Dallas County" shall be changed to read "Bexar County."

****THIS ADDENDUM MUST BE SIGNED AND RETURNED PRIOR TO CONSIDERATION****

Norbert Dziuk
Purchasing & Contract Administrator
Purchasing & General Services Department

Date 4/3/2009

Company Name INX Inc

Address 1955 Lakeway Drive, Suite 220

City/State/Zip Code Newville, TX 75057

Signature _____


INX

**CITY OF SAN ANTONIO
PURCHASING AND GENERAL SERVICES DEPARTMENT**

Issued By WF; CITY CONTRACT NO. 09-083
COOPERATIVE CONTRACT NO.: R4825
PROCURING ENTITY/COOPERATIVE: TCPN

Date Issued: February 26, 2009

**TERMS & CONDITIONS FOR CONTRACT FOR
TRAFFIC MANAGEMENT CENTER AUDIO VISUAL UPGRADES**

Contract Documents: The terms and conditions for performance and payment of compensation for this contract are set forth in the following contract documents, true and correct copies of which are attached hereto and fully incorporated herein for all purposes:

- a. This Terms and Conditions Document;
- b. Any Purchase Orders and Work Orders issued hereunder by the City of San Antonio ("City"); and
- c. Exhibit I – All applicable terms and conditions of Contract # R4825, between INX, Inc. and The Cooperative Purchasing Network ("TCPN"), procured by TCPN and made available to local governmental entities through TCPN.
- d. Exhibit II – Prevailing Wage Rates

Should a conflict arise among the provisions of the contract documents, this Terms and Conditions Document and any Purchase Order and Work Order issued hereunder shall govern over Exhibit I, unless otherwise specifically provided herein.

This Terms & Conditions Document includes the following: General Terms and Conditions, Product Specifications and Description of Services, Price Schedule, any attachments or exhibits identified herein

The City's Purchasing and General Services Department is willing to assist any vendor(s) in the interpretation of this Terms and Conditions Document. Assistance may be received by visiting the Purchasing Office at 111 Soledad, 11th Floor, San Antonio, Texas 78205, or by calling (210) 207-7260.

It is the policy of the City of San Antonio to involve qualified Small, Minority, Woman-owned, and local business in construction, procurement, professional services, and leases and concessions contracting. The City of San Antonio has established the following minority business enterprise (MBE), woman business enterprise (WBE), African-American business enterprise (AABE), and small business enterprise (SBE) utilization goals: MBE Goal: 15%; WBE Goal: 10%; AABE Goal: 3%, SBE Goal: 50%.

The undersigned, by his/her signature, represents that he/she is authorized to bind the Vendor to fully comply with the contract for the amount(s) shown on the accompanying Price Schedule. A signature below indicates that the Vendor has read the entire document, which is incorporated herein, and agreed to the terms therein.

Signer's Name: Paul Hotz Firm Name: INX Inc.
(Please Print or Type)
[Signature] Address: 1955 Lakeway, Ste. 220
Signature of Person Authorized to Sign Offer City, State, Zip Code: Lewisville, TX 75057

FOR CITY USE ONLY

AWARD

Items Accepted: _____ Ordinance No: _____ Date: _____ Amount: _____

Approved: _____

CITY OF SAN ANTONIO

CITY CONTRACT NO.: 09-083-WF_TRAFFIC MANAGEMENT CENTER AUDIO VISUAL UPGRADES

Email Address: _____ Telephone No.: _____
Fax No.: _____

Please complete the following:

Prompt Payment Discount: _____% _____ days. (If no discount is offered, Net 30 will apply.)

Please check the following blanks which apply to your company:

Ownership of firm (51% or more):

___ Non-minority ___ Hispanic ___ African-American ___ Other Minority (specify) _____

___ Female Owned ___ Handicapped Owned ___ Small Business (less than \$1 million annual receipts or 100 employees)

Indicate Status: ___ Partnership ___ Corporation ___ Sole Proprietorship ___ Other (specify) _____

Tax Identification Number: _____

I. GENERAL TERMS AND CONDITIONS

1. The terms "bidder", "contractor", and "vendor" all mean the party providing goods or services to the City pursuant to this contract.
2. **Rejection of Disclaimers of Warranties & Limitations of Liability.** Any term or condition in Exhibit I, or any document furnished by Vendor, disclaiming the implied warranty of merchantability or of fitness for a particular purpose, or attempting to limit Vendor's liability shall be of no force or effect, and shall be stricken from the contract documents as if never contained therein.
3. **Acceptance of Offer.** By signing and submitting this document, Vendor is making an offer to City. A written award of acceptance (manifested by a City Ordinance) and appropriation or purchase order mailed or otherwise furnished to the Vendor results in a binding contract without further action by either party.
4. Vendors shall make all investigations necessary to thoroughly inform themselves regarding plant and facilities for delivery of material and equipment as required by the contract documents. No plea of ignorance by the vendor of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the vendor to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation to the vendor.
5. **Taxes.** Vendor shall not include federal taxes nor State of Texas limited sales excise and use taxes in prices, since the City of San Antonio is exempt from payment of such taxes. An exemption certificate will be signed by City where applicable upon request by Vendor.
6. **Point of Destination.** All goods, materials and equipment shall be delivered FOB Destination, City of San Antonio's designated facility, or to the "ship to" address indicated on the purchase order, inside delivery. Regardless of shipping terms used, title and risk of loss shall pass to City only upon receipt at City's "ship to" address.
7. **Delivery Times.** Proposed delivery time must be shown and shall include weekends and holidays, unless specified otherwise herein.
8. **Failure to Meet Delivery Schedule.** When delivery is not met as provided for in the contract, the Purchasing and General Services Department reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the vendor, in addition to any other damages, direct, indirect, consequential, or incidental incurred by the City as a result thereof.
9. **Acceptance By City.** The City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by Vendor. The City at its option may reject all or any portion of such goods or services which do not, in City's sole discretion, comply in every respect with all terms and conditions of the contract. The City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If the City elects to accept nonconforming goods and services, the City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate the City for the nonconformity. Any acceptance by the City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services.
10. **Warranty.** Unless a specific warranty is provided elsewhere in these contract documents, the supplies or services furnished under this contract shall be covered by the most favorable commercial warranties given to any customer for same or similar supplies or services.
11. **Change Orders.** In order to comply with Texas law governing purchases made by municipalities, the follow rules shall govern all change orders made under this contract.

- (a) Any change orders that become necessary during the term of this contract as a result of changes in plans, specifications, quantity of work to be performed, materials, equipment or supplies to be furnished may be approved by the Director of Purchasing and General Services Department ("Purchasing Director"), or her designee, provided that such change orders:
 - (1) are made in writing, signed by the Purchasing Director or her designee;
 - (2) do not involve an increase or decrease in contract price of more than \$25,000; and
 - (3) sufficient funds have already been allocated by City or are available to the Purchasing Director to cover any increase in contract price.
- (b) Any other change will require approval of the City Council, City of San Antonio.
- (c) Changes that do not involve an increase in contract price may, however, be made by the Purchasing Director.

12. Contract Termination

TERMINATION-BREACH:

- (a) Should Vendor fail to fulfill in a timely and proper manner, as determined solely by the Director of Purchasing and General Services, its obligations under this contract, or violate any of the material terms of this contract, the City shall have the right to immediately terminate the contract. Notice of termination shall be provided in writing to the contractor, effective upon the date set forth in the notice. Such termination shall not relieve the vendor of any liability to the City for damages sustained by virtue of any breach by the vendor.

TERMINATION-NOTICE:

- (b) The City may cancel this contract for convenience upon ten days prior written notice.

TERMINATION-FUNDING:

- (c) City retains the right to terminate this contract at the expiration of each of City's budget periods. This contract is conditioned on a best efforts attempt by City to obtain and appropriate funds for payment of any debt due by City herein.

13. INDEMNIFICATION

VENDOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to VENDOR'S activities under this Agreement, including any acts or omissions of VENDOR, any agent, officer, director, representative, employee, consultant or subcontractor of VENDOR, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT VENDOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

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. VENDOR shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or VENDOR known to VENDOR related to or arising out of VENDOR's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at VENDOR's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving VENDOR of any of its obligations under this paragraph.

14. Assignment and Subcontracting

- (a) Vendor shall not sell, assign, pledge, transfer or convey any interest in this contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the Director of City's Purchasing Division. As a condition of such consent, if such consent is granted, Vendor shall remain liable for completion of the services outlined in this contract in the event of default by the successor vendor, assignee, transferee or subcontractor.
- (b) Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Contract. Compliance by subcontractors with this contract shall be the responsibility of Vendor. City shall in no event be obligated to any third party, including any subcontractor of Vendor, for performance of services or payment of fees.
- (c) Any attempt to transfer, pledge or otherwise assign this contract without said written approval, shall be void ab initio, and shall confer no rights upon any third person. Should Vendor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this contract, City may, at its option, cancel this contract and all rights, titles and interest of Vendor shall thereupon cease and terminate, notwithstanding any other remedy available to City. The violation of this provision by Vendor shall in no event release Vendor from any obligation under the terms of this contract, nor shall it relieve or release Vendor from the payment of any damages to City, which City sustains as a result of such violation.

15. Independent Contractor. Vendor covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City. City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the vendor under this contract and that the vendor has no authority to bind the City.

16. Patents/Copyrights. The Vendor agrees to indemnify and hold the City harmless from any claim involving patent infringement or copyrights on goods supplied.

17. Public Information Act. Vendor is advised that all City contracts are subject to all legal requirements provided for in the City Charter and/or applicable City Ordinances, state and federal statutes. All contracts are subject to the Public Information Act, Texas Government Code Chapter 552; therefore Vendor must clearly indicate any portion of the contract documents that Vendor claims is not subject to public inspection under the Public Information Act.

18. Conflict of Interest. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall benefit financially, directly or indirectly, in the sale to the City of any materials, supplies or services, except on behalf of the City as an officer or employee. This prohibition extends to the City Public Service Board, San Antonio Water System, and all City boards and commissions other than those which are purely advisory. In this instance a City employee is defined as any employee of the City who is required to file a financial involvement report pursuant to the City's ethics ordinance.

19. Severability. If any clause or provision of this contract 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 contract 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 contract that is invalid, illegal, or unenforceable, there be added as a part of the contract 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.

20. Nonwaiver of Performance. Unless otherwise specifically provided for in this contract, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this contract shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this contract, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option.

21. Non-discrimination Policy. It is the City's policy that Small and/or Minority Business Enterprises shall have the maximum practicable opportunity to participate in the performance of public contracts. Vendor agrees that if this offer is accepted, he/she 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, handicap or political belief or affiliation.

22. Compliance with Law. Vendor shall provide and perform all services required under this contract in compliance with all applicable federal, state and local laws, rules and regulations.

23. Venue. Venue of any court action brought directly or indirectly by reason of this contract shall be in Bexar County, Texas. This contract is made and is to be performed in Bexar County, Texas, and is governed by the laws of the State of Texas.

24. Entire Agreement. This contract, together with its authorizing ordinance and its attachments, purchase orders, and 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 contract 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 the Change Order provision herein.

25. Insurance.

Prior to the commencement of any work under an Agreement awarded pursuant to this RFCSP, the selected Respondent shall furnish an original completed Certificate(s) of Insurance to the Purchasing & General Services Department, which shall be clearly labeled Traffic Management Center Audio Visual Upgrades in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original Certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under said Agreement until such Certificate shall have been delivered to the Purchasing & General Services Department, and no officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

The City reserves the right to review these insurance requirements during the effective period of the Agreement and any extension or renewal thereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager, based upon changes in statutory law, court decisions or circumstances surrounding the Agreement, but in no instance will City allow modification whereupon City may incur increased risk.

Respondent's financial integrity is of interest to the City, and, therefore, subject to Respondent's right to maintain reasonable deductibles in such amounts as are approved by the City, Respondent shall obtain and maintain in full force

CITY CONTRACT NO.: 09-083-WF_TRAFFIC MANAGEMENT CENTER AUDIO VISUAL UPGRADES

and effect, for the duration of the Agreement, and any extension thereof, at Respondent's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
3. Broad Form Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

Respondent agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same insurance coverages required of Respondent herein, and provide a certificate of insurance and endorsement that names the Respondent and the City as an additional insured. Respondent shall provide the City with said certificate and endorsement prior to the commencement of any work by the subcontractor. This provision may be modified by City's Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this agreement. Such modification may be enacted by letter signed by City's Risk Manager, which shall become a part of the contract for all purposes.

The City shall be entitled, upon request and without expense, to receive copies of the policies 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. Respondent shall be required to comply with any such requests and shall submit a copy of the replacement Certificate of Insurance to City at an address provided below by City within ten (10) days of the requested change. Respondent shall pay any costs incurred resulting from said changes.

City of San Antonio
Purchasing & General Services Department
Traffic Management Center Audio Visual
Upgrades 09-083-WF
P.O. Box 839966
San Antonio, Texas 78283-3966

Respondent agrees that, with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

1. Name the City and its officials, employees, volunteers and elected representatives as additional insured 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;

2. 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;
3. Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the City.
4. 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.

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 Respondent'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

In addition to any other remedies the City may have upon Respondent's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Respondent to stop work under the Agreement, and/or withhold any payment(s) which become due to Respondent thereunder until Respondent demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which Respondent may be held responsible for payments of damages to persons or property resulting from Respondent's or its subcontractors' performance of the work covered under the Agreement. It is agreed that Respondent's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this contract.

It is agreed that Respondent's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement

Respondent and any Subcontractors are responsible for all damage to their own equipment and/or property.

26. Prevailing Wage Rates.

Contractor shall comply with the Wage and Labor Standard Provisions attached hereto and incorporated herein for all purposes as Attachment No. 1.

27. Workers' Compensation Insurance Coverage.

(a) Definitions:

- (1) Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Division, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
 - (2) Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the City.
 - (3) Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- (b) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- (c) The contractor must provide a certificate of coverage to the City prior to being awarded the contract.
- (d) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- (e) The contractor shall obtain from each person providing services on a project, and provide to the City:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (f) The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- (g) The contractor shall notify the City in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- (h) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Division, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

- (i) The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (i) a certificate of coverage, prior to the other person beginning work on the project; and
 - (ii) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (6) notify the City in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- (j) By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the City that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Division's section of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- (k) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the City to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the City.

28. Payment Bond. Contractor shall provide a payment bond as security for all persons supplying labor and material in the performance of this contract. Said bond shall be executed by a corporate surety acceptable to City, licensed pursuant to the Texas Insurance Code in the full amount of the contract price. Said bond must be in a form acceptable to City. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code,

chapter 2253 and the Texas Property Code, chapter 53. This bond must be executed and delivered to City prior to commencement of work under this contract.

29. Performance Bond. Contractor shall provide a performance bond made payable to the City of San Antonio, executed by a corporate surety acceptable to City who is licensed pursuant to the Texas Insurance Code in the full amount of the contract price. Said bond must be in a form acceptable to City. Said bond shall further provide that the surety shall indemnify the obligee for all damages or losses resulting from the principal's default. Said bond shall further guarantee the principal's performance of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253. This bond must be executed and delivered to City prior to commencement of work under this contract.

[The remainder of this page is intentionally left blank.]

II. STATEMENT OF WORK

Include a description of the products you are buying and/or the services that the vendor will be providing.

[The remainder of this page is intentionally left blank.]



STATEMENT OF WORK

This Statement of Work Agreement ("SOW") is made and entered into between INX Inc. ("INX") and CITY OF SAN ANTONIO Traffic Management Division.. This SOW describes the comprehensive set of support services to be performed by INX in an effort to implement various Audio Visual Equipment Upgrades as defined by members of the Traffic Management Staff. Upon acceptance, this SOW will become a contractually binding agreement for the delivery of the services described herein.

This SOW defines the services and deliverables that INX shall provide to Traffic Management. The terms of this SOW are limited to the scope of this SOW and shall not be applicable to any other SOWs, which may be executed and attached to a Master Services Agreement if one has been executed between the parties.

This SOW outlines the project components for the Installation, Configuration and testing of Audio-Visual Equipment to be installed at the Traffic Management Center. INX will work with the Traffic Management to identify functional and technical requirements. INX will deploy, configure and test any new components in an effort to determine that they work together in harmony.

INX will take a business solutions approach to this implementation. The INX project team will work to gain a solid understanding of the business environment and process architecture that will drive the application requirements.

PROPRIETARY INFORMATION AND TRADE SECRETS NOTICE: This SOW contains valuable trade secrets and confidential and proprietary information of INX, including but not limited to many of INX's methodologies and protocols for accomplishing the project. The methodologies and other information contained within this SOW, have been developed by INX over long periods of time at considerable expense, and are confidential and proprietary to INX.

UNDER NO CIRCUMSTANCES IS ANY PART OF THIS DOCUMENT TO BE DISCLOSED TO ANY THIRD PARTY, OR USED FOR ANY PURPOSE OTHER THAN THE EXECUTION OF THIS PROJECT BY INX AND CITY OF SAN ANTONIO, WITHOUT THE PRIOR WRITTEN CONSENT OF INX.

U.S. GOVERNMENT RESTRICTED RIGHTS. For U.S. Government City of San Antonio's, this SOW and all products and services provided hereunder are provided with RESTRICTED RIGHTS. Use, reproduction or disclosure is subject to restrictions set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software Restricted Rights clause at DFARS 252.227-7013 or the Commercial Computer Software Restricted Rights clause at FAR 52.227-19 subdivision (c)(1) and (2), as applicable. Contractor/manufacturer is INX Inc., 1955 Lakeway Drive, Suite 220, Lewisville, Texas 75057.

This SOW consists of a signature page and one or more of the following sections, which are incorporated in this SOW by reference and are binding upon the parties:

1. Project Understanding
2. Project Approach
3. Key Assumptions
4. TRAFFIC MANAGEMENT Obligations
5. Deliverables
6. Staffing
7. Payment
8. Additional Terms



1. Project Understanding

INX proposes to provide Installation Services of all of the Audio Visual and Video Conferencing equipment to be purchased and installed at the Traffic Management Center facility. This agreement will be structured to ensure that all of the A/V equipment in the facility is installed using Best Practices and as per manufacturer specifications. INX will work with Traffic Management Staff to prioritize tasks and develop a Project Schedule to include Timelines and critical path dependencies.

A detailed inventory will be created containing all equipment by serial number will and maintained with all information pertaining to warranty information and include any applicable software/firmware updates.

Any additional requests for A/V equipment / system upgrades will be designed and proposed to the Traffic Management Staff and processed with an approved Project Change Request (PCR).

2. Project Approach

The INX project methodology is comprised of five phases: Planning, Design, Implementation, Training, and Support.

2.1 Project Management. INX will provide a project manager (PM) who is skilled in providing Audio-Visual Design Support, familiar with the technology involved, and experienced in project management methodologies. Responsibilities will include:

- Work with Traffic Management and INX project personnel to prioritize and plan the activities for the duration of the engagement.
- Review and communicate the status of the project on a monthly/quarterly basis through status reports, indicating performance on previous period tasks, as well as any issues or other areas requiring attention by INX and/or the Traffic Management..
- Monitor quality on the project by balancing vendor relations and establishing effective communications with Traffic Management staff, while maintaining focused, high-quality effort through project completion.
- Schedule work tasks and provide timelines as appropriate.
- Utilize both INX and Traffic Management resources to accomplish all tasks.
- Complete any necessary Project Change Requests (PCR) to reflect changes to the items outlined in this SOW. It may become necessary to amend this Scope of Work for reasons including, but not limited to, the following: 1) TRAFFIC MANAGEMENT changes to requirements or specifications; 2) Non-availability of resources which are beyond either party's control; and/or, 3) Environmental or architectural impediments not previously identified. If any such change should be necessary, it will be the responsibility of the Project Manager and TRAFFIC MANAGEMENT to execute a PCR to define the change(s) and any impact to the original scope, timeline, budget, or performance criteria.

The phases of the project are defined below.

2.2 Planning. The Planning Phase is essentially a discovery process in which all elements that potentially impact the project are examined. The Planning Phase is the most crucial portion of the project; the discoveries made in this phase are the foundation for the Design and Implementation Phases.

2.2.1 Assessment. The purpose of this assessment is to document the existing infrastructure environment and devices. The following elements will be identified, reviewed and/or defined:

- Facilities characteristics



- Installed equipment
- Logistical understanding
- **Compliance issues; as applicable (HIPPA, Sarbanes Oxley, SOX, etc.)**
- Overall requirements
- Site back-up/recovery strategy

2.3 Design. During the Design Phase, INX will work from the information gathered in the Planning Phase to ensure the solution will meet the TRAFFIC MANAGEMENT requirements. The project schedule and tasks may be revised during this phase in order to account for discoveries made during the Planning Phase and a PCR may be required.

2.4 Implementation. INX approaches implementation from a skills-based perspective. Our deployment team is made up of engineers and technicians who have specific skill sets that will be utilized at different times during a given project. This allows us to provide a very specialized workforce to the TRAFFIC MANAGEMENT. These engineers and technicians will be assigned as needed by the PM and will be scheduled accordingly. The following outlines the work to be performed by INX in the Implementation Phase.

Main Operation Room:

The SOW consists of installing three LCD projectors side-by-side, projecting on a single, large fixed frame projection screen which will be installed along the front wall of the TMC Main Operations Room. These projectors will be configured to display multiple PC, camera video, DVD and cable TV signals.

A master control system will be installed and programmed to select and route the above referenced signals for display on the three projectors. An installed audio system will provide sound reinforcement for selected sources as required.

This system will provide TMC personnel the ability to monitor numerous camera video signals from traffic intersections around San Antonio along with signals generated from PCs located in the Main Operations Room. Cable TV signals can also be integrated into the display system for news events. The system has the ability to arrange these signals in a wide variety of combinations on the main screen, allowing a display priority selection based on events occurring at any given time.

Conference Room:

This SOW consists of wall-mounting a 60" Plasma monitor in the Conference Room. This monitor will provide the ability to display several media sources including: Laptop PC, dedicated room PC, DVD/VCR unit and cable TV. An installed audio system will provide sound reinforcement for selected sources as required.

This system will provide TMC personnel the ability to perform a variety of media events, including: Training sessions, presentations for guests, etc.



2.4.10 Sign-Off and Acceptance

Once the services included in this Implementation section are complete and tested, TRAFFIC MANAGEMENT will be asked to sign off and accept the work described herein. INX will be released of obligation under this SOW once sign-off has been obtained. Only once that sign-off has been obtained may TRAFFIC MANAGEMENT access the systems. If TRAFFIC MANAGEMENT personnel access the systems prior to sign-off without express consent from INX, INX may be released from liability and obligation to problem resolution and additional fees may be incurred.

2.5 Training. INX upon completion will provide knowledge transfer to TRAFFIC MANAGEMENT staff along with documentation to include working configurations.

3. Key Assumptions

INX will be responsible for the configuration of the equipment listed in the Materials list attached to this document and other related components.

- 1) Engagement is estimated to be approximately One Year, precluding any work stoppage or delays due to circumstances beyond the control of INX.
- 2) Unless previously agreed upon in writing, all deployment activities will be performed during normal business hours: Monday through Friday, 9:00AM to 6:00PM, holidays excluded.
- 3) All tasks are subject to scheduling and may occur in a non-consecutive timeframe.
- 4) Performance of tasks not specified in this SOW are outside the scope of this SOW and will necessitate the execution of a Project Change Request and may result in a change of scheduling, staffing and/or pricing.

4. TRAFFIC MANAGEMENT Obligations

TRAFFIC MANAGEMENT will be responsible for the following:

- 1) Ensure staff availability per INX's request.
- 2) Work with INX in a partnership environment.
- 3) Designate an TRAFFIC MANAGEMENT Project Manager to participate in all activities related to the plan, design, acquisition, functional definition, development, testing, and implementation of the planned application(s). TRAFFIC MANAGEMENT Project Manager will serve as the project focal point of TRAFFIC MANAGEMENT, TRAFFIC MANAGEMENT suppliers, TRAFFIC MANAGEMENT technical support staff and INX project personnel. TRAFFIC MANAGEMENT Project Manager will be responsible for coordinating all TRAFFIC MANAGEMENT personnel to resolve any possible issues encountered by the INX project team.
- 4) Share responsibility with INX for project management, planning, design, functional definition, development, testing, and implementation activities.
- 5) Retain overall responsibility for any business process impact and any process change implementation for TRAFFIC MANAGEMENT Business Units.
- 6) Provide a suitable office space, access to printer, office supplies, Internet connectivity and telephone, at no charge, to the INX project personnel while working at the TRAFFIC MANAGEMENT premise.
- 7) Provide timely, unhindered access to physical site, including necessary security measures, and relevant hardware and software systems to the INX project personnel during business and non-business hours as required.
- 8) Provide all necessary cable, racks, patch panels, power, etc. required for the implementation of this SOW, but not included in the Materials list attached or specifically herein assigned to INX.
- 9) Comply with all physical and environmental requirements per vendor specifications (ex: rack space, power, cabling, etc.).



Note: Incorrect assumptions or TRAFFIC MANAGEMENT's failure to fulfill its obligations, as set forth herein, may impact the project deliverables, timeline and/or project cost elements. TRAFFIC MANAGEMENT will be held financially responsible in such instances.

5. Deliverables

Deliverable	Description
Signed SOW	Defines overall scope of work and areas of responsibility.
Materials list	List of Equipment included in this agreement
Project Timeline	Shows overall timeline and specific milestones and objectives.
Project Completion Document	Based on original SOW and any PCRs. Defines final project deliverable and requires TRAFFIC MANAGEMENT signoff. Marks official completion milestones of the project.
As-Built Configuration Documentation	May include dial plan, network diagram, Video Conferencing design, and text version of running configuration of hardware.

6. Staffing

Once INX has received a signed SOW, INX will identify the appropriate staffing for this project. INX will make reasonable efforts to maintain the continuity of the consultants and technical staff assigned to the project. However, INX reserves the right to re-assign project consultants and technical staff for this project. INX will provide comparable replacement resources and manage the resource transition to maintain project continuity and TRAFFIC MANAGEMENT satisfaction. INX will assume the cost of overlapping resources and advance training and preparation of replacement personnel for the project.

7. Payment

All payment for INX invoices must list the project name and project ID number. Incomplete or incorrect invoices may be returned for correction. Payment terms are described in the Master Services Agreement between INX and TRAFFIC MANAGEMENT. Invoices shall be sent to the following address:

NOTE: All hardware, software, accessories, etc. (all non-services items) will be billed separately and with NET-30 terms.

CITY OF SAN ANTONIO
 Attn:
 ADDRESS

INX will invoice TRAFFIC MANAGEMENT based on the project milestones listed below. Dates listed below are subject to change due to changes in the project timeline. Service payment terms are NET-30.

This is a fixed price contract based on the criteria and assumptions in this Statement of Work. The cost for this service contract is \$ 20,970.00 and billable upon completion of project.

Billing Milestones	Approximate Invoice Dates	Amount
Upon completion	09/30/2009	\$ 20,970.00



B. Additional Terms

The following Additional Terms shall govern this SOW unless a valid Master Services Agreement between the parties, if any, for professional services has been executed and is in force at the time any SOW is executed, in which case the terms of the Master Services Agreement shall govern to the extent that they are inconsistent with this SOW.

A. Purchase Orders and Limitations of Warranties. Any purchase order submitted by TRAFFIC MANAGEMENT in connection with this SOW shall be deemed subject to the terms of this SOW; INX's performance of such purchase order shall not constitute INX's acceptance of new or different terms, including pre-printed terms on such order. INX shall invoice TRAFFIC MANAGEMENT for services in accordance with the terms stated in the SOW. TRAFFIC MANAGEMENT shall pay all taxes, except for taxes due on INX's net income. INX warrants that services shall be provided by competent personnel in accordance with applicable professional standards. INX MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. TRAFFIC MANAGEMENT acknowledges that INX, its vendors, and/or its licensors retain all patents and/or copyrights in and to all proprietary data, processes and programs, if any, provided in connection with services performed hereunder; any INX software provided to TRAFFIC MANAGEMENT as part of the services provided shall be subject to the vendor's copyright and licensing policy. To the extent such software is prepared by INX, it is provided by nontransferable, nonexclusive license for TRAFFIC MANAGEMENT's internal use only, subject strictly to the terms and conditions of this Agreement, and shall terminate upon termination or expiration of this Agreement. TRAFFIC MANAGEMENT shall not duplicate, use or disclose for the benefit of third parties, reverse engineer or decompile any such software.

B. Limitation of Liability. IN NO EVENT SHALL INX BE LIABLE TO TRAFFIC MANAGEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER, ARISING IN CONTRACT, TORT OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; INX'S ENTIRE LIABILITY AND TRAFFIC MANAGEMENT'S EXCLUSIVE REMEDY FOR DAMAGES FROM ANY CAUSE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, NONPERFORMANCE OR MISREPRESENTATION, AND REGARDLESS OF THE FORM OF ACTIONS, SHALL BE LIMITED TO THE AMOUNT WHICH HAS BEEN ACTUALLY PAID TO INX BY TRAFFIC MANAGEMENT FOR SERVICES AND/OR PERFORMANCE HEREUNDER.

Without limiting the foregoing, INX will have no responsibility for the adequacy or performance of (i) any third party software provided to INX under this agreement; (ii) any hardware, and (iii) any services provided by any third party.

C. Non-Solicitation Provision. During the term of this SOW and for twelve (12) months thereafter, neither party will solicit for employment any employee or contractor of the other if such party was introduced to the employee directly or indirectly as a result of this SOW or any follow-on work.

D. Document Control/Responsibility. TRAFFIC MANAGEMENT is responsible for maintaining its own procedures for the reconstruction of lost or altered files, backup or saving of data or programs to the extent deemed necessary by TRAFFIC MANAGEMENT and for actually reconstructing any lost or altered files, data or programs. INX assumes no responsibility for the protection of TRAFFIC MANAGEMENT's data. INX is not liable for damage to software or data caused by service to the computer hardware equipment. TRAFFIC MANAGEMENT agrees that it shall have the sole responsibility for safeguarding the software and data during service work performed by INX. INX is not liable for software damage due to any outside factor, i.e. software virus.

E. Force Majeure, Choice of Law and Venue. Neither party shall be liable for any failure or delay in performance of its obligations hereunder where such performance is prevented or delayed by causes beyond its reasonable control, including without limitation, flood, war, embargo, strike or other labor dispute, riot, acts of God or the intervention of any government authority. This SOW and all matters relating thereto shall be governed exclusively by the substantive law of the State of Texas and any dispute relating directly or indirectly to this SOW or any other contract or agreement between the parties shall be brought in a court of competent jurisdiction in Dallas County, Texas, that being the exclusive venue for any dispute between or any claims held by any of the parties to this SOW.

F. Miscellaneous. This SOW constitutes the entire agreement of the parties and supersedes all prior written or oral agreements, representations and understandings relating to the subject matter hereof, with the exception of a valid Master Services Agreement between the parties under the terms of which this SOW shall be incorporated. This SOW shall not be amended or modified except by written instrument signed by the parties.

Each party has had an opportunity to consult with advisors of its own choosing, including legal counsel and/or accountants and has been advised regarding the legal and/or tax effects of this document.



By signing below, both parties agree to the terms and conditions contained herein:

INX:

**CITY OF SAN ANTONIO-TRAFFIC
MANAGEMENT:**

7600B North Capital of Texas Highway
Austin, TX 78731

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



“ATTACHMENT A”

Audio-Visual Labor Rate Schedule

Part Number	Description	Standard Rate	Overtime Rate
LABOR-AVTECH	General Audio-Visual Technician for Onsite Support (Experienced Tech for A/V operations and integration)	\$ 75.00	\$ 105.00
LABOR-VIDEO	Video Conferencing Technician for Onsite Support (Certified Video Conferencing Technician)	\$ 105.00	\$ 150.00
LABOR-CONTROLS	Control System Programmer for Onsite Integration or Senior Engineer (Certified AMX and Creston Programmer or Senior Consultant)	\$ 115.00	\$ 165.00

**III. TCPN-INX PRICE QUOTE
ATTACHMENT**

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INX, Inc.
 85 NE LOOP 410
 Suite 560
 San Antonio, Texas 78216



Date: February 16, 2009
 Quote #: COSA021609-2
 From: Pete Perales
 Phone: 210-340-2009
 FAX: 512-795-8844
 Email: pperales@inx.com

To: Lilly Banda Traffic Management Center
 Company: CoSA Traffic Management Audio Visual Upgrades
 Address: EOC - Brooks City Base
 San Antonio, Texas
 Phone: (210)733-4573
 Email: Lilly.Banda@sanantonio.gov

Vendor	Part Number	Description	Qty	Unit Price	Ext Price
TRAFFIC CONTROL ROOM DISPLAY SYSTEM					
RGB	MediaWall 2000	RGB Spectrum MediaWall 2000 Video Processor	1	\$ 25,995.00	\$ 25,995.00
RGB	Edge-Blending Kit	RGB Spectrum Edge-Blending Kit	3	\$ 2,672.25	\$ 8,016.75
EXTRON	60-764-31	EXTRON MAVPlus 4848 Composite Video Matrix Switch	1	\$ 8,398.95	\$ 8,398.95
EXTRON	60-852-21	EXTRON RGB1212 Crosspoint RGBHV Matrix Switch	1	\$ 7,822.50	\$ 7,822.50
EXTRON	60-606-01	EXTRON PIP-444 Video Quad Splitter	3	\$ 2,782.50	\$ 8,347.50
SANYO	PLC-ET30L	SANYO PLC-ET30L Projector	3	\$ 5,445.00	\$ 16,335.00
SANYO	LNS-W10	SANYO Short-Throw Lens for PLC-ET30L	3	\$ 1,855.00	\$ 5,565.00
SANYO	610-3335-8093	SANYO Spare Lamps for above	3	\$ 445.00	\$ 1,335.00
SONY	DSLV160	SONY Pro DVD Player	1	\$ 135.45	\$ 135.45
EXTRON	60-647-01	EXTRON AVT-100N NTSC Tuner	3	\$ 483.00	\$ 1,449.00
EXTRON	60-439-20	EXTRON MDA 3AV Audio/Video Distribution Amplifier	2	\$ 215.00	\$ 430.00
EXTRON	60-480-11	EXTRON MSW 4V rs Composite Video Switcher	2	\$ 305.00	\$ 610.00
DA-LITE	5x21 Perm Wall	DA-LITE Perm-Wall Front Projection Screen	1	\$ 1,525.00	\$ 1,525.00
NEXIA	Nexia CS	BI-AMP Nexia Mixer	1	\$ 1,725.75	\$ 1,725.75
CROWN	180MA	CROWN 180MA Amplifier	1	\$ 415.00	\$ 415.00
AUDIO-TECH	3004	AUDIO-TECHNICA Wireless MIC System	1	\$ 700.00	\$700.00
JBL	Control 24CT	JBL Control 24CT ceiling Speaker Assemblies	12	\$ 104.00	\$1,248.00
ATLAS	AS-WA110	ATLAS SOUNDOLIER Wall Attenuators	2	\$ 65.00	\$130.00
CRESTRON	TPS-4000/PRO2	CRESTRON Integrated Control System	1	\$ 8,825.00	\$8,825.00
TRIP-LITE	TL SP-100	TRIPP LITE Rack-mount Surge protector/power strip	1	\$ 175.00	\$175.00
TRAFFIC CONTROL CONFERENCE ROOM A/V SYSTEM					
NEC	60XP10	NEC 60XP10 60" Plasma Monitor	1	\$ 4,995.00	\$4,995.00
CHIEF	PRO-2074	Tilt/Wall Mount for NEC 60" Plasma	1	\$ 355.25	\$355.25
SONY	DSLV160	SONY Pro DVD Player	1	\$ 139.35	\$139.35
CROWN	160MPA	CROWN 160MPA Amplifier	1	\$ 355.35	\$355.35
JBL	CONTROL 24CT	JBL Ceiling Speaker Assemblies; 5 Speakers	5	\$ 105.00	\$525.00
ATLAS	AS-WA110	ATLAS Soundoller Wall Attenuator	1	\$68.00	\$68.00
DA-LITE	70X70 ELECTROL	DA-LITE 6' Wide Boardroom Electrol Motorized Screen (Sheetrock Trim	1	\$1,674.75	\$1,674.75
SANYO	PLC-XU105	SANYO PLC-XU-105 LCD Projector	1	\$2,203.95	\$2,203.95
TRIPP-LITE	TL SP-100	TRIPP LITE Rack-mount Surge protector/power strip	1	\$175.00	\$175.00
POLYVISION	TS-4V	4' wide Wood Veneer Executive Conference Unity with TS400 Interactive	1	\$2,350.95	\$2,350.95
INX	MISC-MATERIALS	Miscellaneous cables, connectors, jacks and other consumeables	1	\$ 3,135.00	\$3,135.00
INX	LABOR-AV	Equipment Installation Services	154	\$ 75.00	\$11,550.00
INX	LABOR-VIDEO	Installation of OFE Tandberg VTC System	24	\$ 105.00	\$2,520.00
INX	LABOR-PROG	CRESTRON Custom System Programming	60	\$ 115.00	\$6,900.00
INX	SURETY BOND	BONDING REQUIREMENTS FOR \$150,000.00	1	\$3,335.00	\$3,335.00



INX, Inc.
 85 NE LOOP 410
 Suite 560
 San Antonio, Texas 78216



The Cooperative Purchasing Network
 TCPN CONTRACT NO. 4825

Date: February 16, 2009

Quote #: COSA021609-2

From: Pete Perales

Phone: 210-340-2009

FAX: 512-795-8844

Email: pperales@inx.com

To: Lilly Banda Traffic Management Center
 Company: CoSA Traffic Manager Audio Visual Upgrades
 Address: EOC - Brooks City Base
 San Antonio, Texas
 Phone: (210)733-4573
 Email: Lilly.Banda@sanantoniogov

Vendor	Part Number	Description	Qty	Unit Price	Ext. Price
		SHIPPING & HANDLING			\$1,924.00
				TOTAL:	\$ 141,390.50

INX, Inc.
 83 NE Loop 410
 Suite 560
 San Antonio, TX


Quote valid for 30 days
 Terms are Net 30
 Lead times subject to change

Customer Signature _____ Date _____

EXHIBIT I

Exhibit I – All applicable terms and conditions of Contract # R4825, between INX, Inc. and The Cooperative Purchasing Network (“TCPN”), procured by TCPN and made available to local governmental entities through TCPN.

[The remainder of this page is intentionally left blank.]

 TCPN <small>The Cooperative Purchasing Network</small>		TCPN CONTRACT INFORMATION
Contract:	Telecom Services, Internet Access, Internal Connections and Basic Maintenance of Internal Connections Eligible for E-Rate	
Awarded Vendor:	INX, Inc.	
TCPN Contract Number:	R4825 (All PO's must reference "Per TCPN Contract")	
Contract Expiration Date:	October 31, 2009	
Number of Annual Renewals:	3	
Approved Products/Services:	<p>Networking Systems: Cisco Systems Equipment Platforms and Cistera Hardware and Software Video Teleconferencing & Distance Learning Systems: TANDBERG Equipment UPS and Generator Systems: All brands and models Quintron: Student attendance, access control and Student ID Card Systems Servers and Computer Systems: IBM, Dell, HP computer and server platforms Systems Software: All Linux, Microsoft Server and VMware desktop and productivity software platforms. Electrical and Cabling: Electrical work pertaining to data center: electrical outlets, management and/or distribution of two or three phased municipal or commercial electricly feed, generator assessment and implementation, data and traditional telephone cabling, patch cabling. Cabinets/ Racks: All rack systems for data center, IDF/MDF equipment and wiring closets. Content Filtering & SPAM Filtering & Antivirus: Websense systems, Ironport security appliances, leading antivirus and anti SPAM systems. Video: LCD Televisions and Displays</p>	
Order Placement:	This contract is an "E-Commerce Contract" which allows participating entities to send PO's directly to INX, Inc.	
Pricing:	Contact vendor for pricing.	
Other:		
Other:		
Online Ordering Availability:	Not available	
Freight/Delivery:	Destination. Delivery dependent on manufacturer's availability.	
Vendor Contact:	Helen Martinez 505-256-9047, ext 146 Helen.Martinez@INX.com	
Vendor Website:	https://www.inx.com	
Vendor MWBE/HUB Status:	Not Certified	
TCPN Authorizing Statutes:	Texas Government Code, Title 7, Intergovernmental Relations, Chapter 791 Interlocal Cooperation Contracts, Subchapter B, General Interlocal Contracting Authority, Subchapter C, Specific Interlocal Contracting Authority. Arizona Revised Statutes 41-2631 et seq; 41-2632 et seq.; 15-213 et seq; A.A.C. R7-2-1101 et seq, and A.A.C. R7-2-1191 et seq.	
TCPN Order Processing:	Tel: 713-744-6356 or Toll-free: 888-884-7695 Fax: 713-744-0648 or Toll-free fax: 800-458-0099 Email: tcpn@tcpn.org	

 Print this Page

 Close



The Cooperative Purchasing Network

November 2, 2007

INX, Inc.
ATTN: Mr. Paul Klotz, VP of Operations
1955 Lakeway Drive, Suite 220
Lewisville, TX 75057

Dear Mr. Klotz:

The Cooperative Purchasing Network (TCPN) is pleased to announce that INX, Inc. has been awarded an annual contract for the following services based on the proposal submitted to TCPN:

Commodity

Telecommunications Services, Internet Access,
Internal Connections, and Basic Maintenance of
Internal Connections Eligible for E-Rate

Contractor

INX, Inc.

The contract is effective immediately and will expire on October 31, 2008. The contract may be renewed annually for up to an additional four years, if mutually agreed to by TCPN and INX, Inc.

The partnership between INX, Inc. and TCPN can be of great help to participating agencies. Please feel free to provide copies of this letter to your sales representatives to assist in their work with our participating agencies.

If you have any questions or concerns, please feel free to call me at the TCPN office at 713-744-6349.

Sincerely,

Matthew Mackel
TCPN, Contract Manager

Robert A. Pechacek
Region 4 ESC, Deputy Director, Financial Services/CFO

VENDOR CONTRACT
Between INX Inc. and
THE COOPERATIVE PURCHASING NETWORK (TCPN)
For

**Telecommunications Services, Internet Access, Internal Connections, and Basic Maintenance of
Internal Connections Eligible for E-Rate**

The following pages will constitute the contract between the successful vendor(s) and TCPN. Bidders shall state, in a separate writing, and include with their response, any required exceptions or deviations from these terms, conditions, and specifications. If agreed to by TCPN, they will be incorporated into the final contract.

The Vendor Contract ("Contract") made and entered into by and between The Cooperative Purchasing Network, (hereinafter referred to as "TCPN") a government cooperative purchasing program sponsored by Region 4 Education Service Center, having its principal place of business at 7145 West Tidwell, Houston, TX 77092-2096, Mary C. O'Brien Accommodation School District, having its principal place of business at 3740 North Toltec Rd., Eloy, AZ 85231 and

INX Inc. with Headquarters located at 1955 Lakeway Drive, Ste 220, Lewisville, Texas 75057.

This contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control.

GENERAL TERMS AND CONDITIONS

1. Freight (if applicable)

All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing.

INX Complies and concurs.

2. Warranty conditions

All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing. Vendor shall be an authorized dealer, distributor or manufacturer for all products. All equipment proposed shall be new unless clearly stated in writing.

INX complies and concurs only when a bundle price/part number is available from the manufacturer. All exceptions will be expressly communicated on the price quotation to the TCPN member. Additionally, INX is a reseller and as such does not warrant workmanship, materials or equipment provided by third-party original equipment manufacturers (OEM). All OEM warranties, certifications and guarantees are passed through to Customer. INX serves

as a single point of contact between third party OEMs and customers to enforce such passed through warranties.

3. Customer support

The Vendor shall provide timely and accurate technical advice and sales support to TCPN staff and TCPN participants. The Vendor shall respond to such requests within one (1) working day after receipt of the request. The Vendor shall provide free training to TCPN staff regarding products and services supplied by the Vendor if required.

INX Complies and concurs.

4. Contracts

All contracts and agreements between a Vendor and a TCPN participant shall strictly adhere to the statutes that are set forth in the Uniform Commercial Code as most recently revised and adopted by the state in which the transaction occurs.

Contracts for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the participating government agencies.

INX Complies and concurs.

5. Tax exempt status

All Texas government agencies participating in TCPN are exempt from payment of taxes under Chapter 20, Title 122A of the Revised Civil Statutes of Texas, for the purchase of tangible personal property. Laws of other states shall apply within those states.

INX Complies and concurs.

Arizona tax requirements

Payment of Taxes by the School District/Public Entity. The School District/public entity will pay only the rate and/or amount of taxes identified in the Offer and in any resulting Contract.

State and Local Transaction Privilege Taxes. The School District/public entity is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sales and are the responsibility of the seller to remit. Failure to remit taxes from the buyer does not relieve the seller from its obligation to remit taxes.

Tax Indemnification. Contractor and all Subcontractors shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all Subcontractors to hold the School District/public entity harmless from any responsibility for taxes damages and interest. If applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment Compensation insurance, Social Security and Worker's Compensation.

IRS W-9. In order to receive payment under any resulting Contract, Contractor shall have a current I.R.S. W-9 Form on file with the School District/public entity. (This is required for any public agency in Arizona.

Knowing the tax laws in other states is the responsibility of the vendor.

INX Complies and concurs.

6. Assignments of contracts

No assignment of contract may be made without the prior written approval of TCPN. Payment can only be made to the awarded Vendor.

Vendor is required to notify TCPN when any material change in operations that may adversely affect TCPN's members, whether perceived or actual, i.e. bankruptcy, change of ownership, merger, etc.

INX Complies and concurs.

7. Disclosures

Vendor affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this contract.

Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with participants in TCPN.

The vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this contract.

Bidder must comply with the following conflict of interest procedures – local government code Chapter 176 – Disclosure of certain relationships with local government officers, providing public access to certain information.

INX Complies and concurs.

8. Renewal of Contracts

Unless otherwise stated, all contracts are for a period of one (1) year with an option to renew annually for an additional four (4) years if agreed to by TCPN and the awarded Vendor. Vendors shall honor the administrative fee for any sales made based on a TCPN contract whether the Vendor is awarded a renewal or not.

INX Complies and concurs.

9. Funding out clause.

Any/all contracts exceeding one (1) year shall include a standard "funding out" clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the Entity's current revenue only, provided the contract contains either or both of the following provisions:

Retains to the Entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the Entity to obtain appropriate funds for payment of the contract.

INX Complies and concurs.

10. Ordering Procedures

Purchase orders are issued by participating agencies to the Vendor per TCPN contract. Participating agencies must send purchase orders to TCPN, unless otherwise stipulated by TCPN. TCPN will review and forward orders to the Vendor within one working day. Confirmation of receipt of order may be requested by TCPN.

INX Complies and concurs.

11. Shipments (if applicable)

The Vendor shall ship ordered products within 2 days (48 hours) after the receipt of the order unless modified in the Special Terms and Conditions. If a product cannot be shipped within that time, the Vendor shall notify TCPN as to why the product has not shipped and shall provide an estimated shipping date, if applicable. The participant may cancel the order if estimated shipping time is not acceptable.

INX Complies and concurs only when products are available from the manufacturer or distributor for immediate shipping. All exceptions will be communicated to the TCPN member upon ordering and availability of estimated time of arrival.

12. Invoices

The Vendor shall submit invoices, in duplicate, to the TCPN participant. Each invoice shall include the TCPN participant's purchase order number. The shipment tracking number or pertinent information for verification of TCPN participant receipt shall be made available upon request. The Vendor shall not invoice for partial shipments unless agreed to in writing in advance by TCPN and the TCPN participant.

INX Complies and concurs.

13. Monthly Reporting

The vendor shall electronically provide TCPN with a detailed monthly report showing the dollar volume of all sales under the contract for the previous month period. Reports shall be submitted to Lorraine Vuong at lvuong@tcpn.org. Reports are due on the fifteenth (15th) day after the close of the previous month period. It is the responsibility of the vendor to collect and compile all sales under the contract from participating members and submit one (1) monthly report. The

monthly report shall include: purchase order number, member name, city/town, sales total and date.

INX Complies and concurs.

14. Payments

The TCPN participant will make payments directly to the Vendor.

INX Complies and concurs.

15. Pricing

The Vendor agrees to provide pricing to TCPN and its participating governmental agencies that are the lowest pricing available to similar customers and the pricing shall remain so throughout the duration of the contract. The Vendor agrees to promptly lower the cost of any product purchased through TCPN following a reduction in the manufacturer or publisher's direct cost to the Vendor. Price increases will be honored. However, the Vendor shall honor previous prices for thirty (30) days after written notification to TCPN of an increase.

All pricing submitted to TCPN shall include the two percent (2%) participation fee to be remitted to TCPN by the Vendor. It is the vendor's responsibility to keep all pricing up to date and on file at TCPN. All price changes shall be presented to TCPN using the same format as was accepted in the original proposal.

INX will use commercially reasonable efforts to provide the lowest possible price on the date and time an order is placed.

16. Administrative Fees

TCPN will invoice the Vendor on a monthly basis for the administrative participation fee. The invoice will be based on total sales made through the TCPN contract with the Vendor. The Vendor shall remit payment to TCPN at net thirty (30) day terms. Some contracts have different variations on this condition (see vendor questionnaire for more information on this).

INX Complies and concurs.

17. Indemnity

The Vendor shall protect, indemnify, and hold harmless TCPN and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the Vendor, Vendor employees or Vendor subcontractors in the preparation of the RFP and the later execution of the contract. Any litigation involving Region 4, TCPN, its administrators and employees and agents will be in Harris County, Texas. Any litigation involving TCPN's participants shall be in the jurisdiction of the participating agency.

INX Complies and concurs.

18. Multiple Contract Awards (if applicable)

TCPN reserves the right to award multiple contracts for each commodity category. Commodity categories are established at the discretion of TCPN.

INX Complies and concurs.

19. State of Texas Franchise Tax

By signature heron, the bidder hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

INX Complies and concurs.

20. New Technology and Products

New products that meet the scope of work may be added to the existing contract. Pricing shall be equivalent to the percentage discount of other products. Vendor may replace or add product lines to an existing contract if the line is replacing or supplementing products on contract, is superior to the original products offered, is discounted in a similar or to a greater degree and/or if the products meet the requirements of the original solicitation. No products may be added to avoid competitive procurement procedures. TCPN may reject any additions, without cause.

INX Complies and concurs.

21. Promotion of Contract (Marketing Plan)

Vendor shall provide to TCPN a marketing plan for promoting the TCPN contract. This plan shall cover all areas and states applicable. Vendor shall demonstrate how the TCPN contract will be used as a primary contract offering to participating agencies. Encouraging participating agencies to circumvent the contract by purchasing directly from Vendor will result in probation or termination of contract.

Vendor must obtain prior approval from TCPN before utilizing promotional material utilizing TCPN name or logo. TCPN will not unduly withhold such approval.

INX Complies and concurs.

22. Website Support

Vendor agrees to allow TCPN to publish their name and logo in our website.

INX Complies and concurs.

23. Supplemental Agreements

The TCPN participant and Vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, on campus service, specialized delivery, etc. Any supplemental agreement developed as a result of this RFP is exclusively between the TCPN participant and Vendor. TCPN, its agents, members and employees shall not be made party to any claim for breach of such agreement. Any supplemental agreement between Vendor and the TCPN participant is exclusively between the TCPN participant and the Vendor and will be subject to immediate cancellation by the TCPN participant (without penalty to the TCPN participant) if, in the opinion of the TCPN participant, the quality, service, and specification requirements, and/or the terms and conditions are not maintained as stated in the supplemental agreement.

INX Complies and concurs.

24. Miscellaneous

The Vendor acknowledges and agrees that continued participation in TCPN is subject to TCPN's sole discretion, and that any Vendor may be removed from the participation in the Program at any time with or without cause.

Nothing in the contract or in any other communication between TCPN and the Vendor may be construed as a guarantee that TCPN participants will submit any orders at any time. TCPN reserves the right to request additional proposals for items already on contract at any time.

INX Complies and concurs.

SIGNATURE FORM

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices quoted unless noted in writing. The undersigned further certifies that he or she is an authorized agent of the company and has authority to negotiate and contract for the company named below.

If addenda to this RFP are released, indicate the receipt of addenda by entering the number of addenda here: Addendum 1 received.

Prices are guaranteed for 1 year.

Company Name: INX Inc.
Address: 1955 Lakeway Drive, Ste 220
City/State/Zip: Lewisville, TX 75057
Telephone No: 469-549-3812
Fax No: 469-549-3888
Email Address: Paul.Klotz@inxi.com

Authorized Signature: _____

Printed Name: Paul Klotz
Position with Company: VP of Operations

Sales Representative: Kutlu Gulamber
Web site URL: www.inxi.com

Accepted by The Cooperative Purchasing Network:

Term of contract to 11-2-07 to 10-31-08

Unless otherwise stated, all contracts are for a period of one (1) year with an option to renew annually for an additional four (4) years if agreed to by TCPN and the awarded Vendor. Vendors shall honor all participation fees for any sales made based on a TCPN contract whether the Vendor is awarded a renewal or not.

Matthew Mackel

TCPN Authorized Signature
Matthew Mackel

Print Name

11-2-07

Date

Approved by Region 4 ESC by Robert A. Pechacek
Approved by Mary C. Obrien
Accommodation School District by _____

11-2-07

Date

TCPN Contract No. R4825

Date

EXHIBIT II

Exhibit II – Prevailing Wage Rates

[The remainder of this page is intentionally left blank.]

WAGE AND LABOR STANDARD PROVISIONS
CITY OF SAN ANTONIO FUNDED CONSTRUCTION

Contents

1. GENERAL STATEMENT
2. LABOR COMPLIANCE OFFICE, CAPITAL IMPROVEMENTS MANAGEMENT SERVICES DEPARTMENT RESPONSIBILITIES
3. CLAIMS & DISPUTES PERTAINING TO WAGE RATES
4. BREACH OF WAGE & LABOR STANDARDS PROVISIONS
5. EMPLOYMENT OF LABORERS/MECHANICS NOT LISTED IN WAGE DETERMINATION DECISION
6. MINIMUM WAGE
7. OVERTIME COMPENSATION
8. PAYMENT OF CASH EQUIVALENT FRINGE BENEFITS
9. WORK CONDUCTED ON HOLIDAYS
10. UNDERPAYMENT OF PREVAILING WAGES OR SALARIES
11. DISPLAYING WAGE DETERMINATION DECISION/STATEMENT AND "NOTICE TO EMPLOYEES"
12. PAYROLLS & BASIC PAYROLL RECORDS
13. LABOR DISPUTES
14. COMPLAINTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES
15. EMPLOYEE INTERVIEWS TO ASSURE WAGE & LABOR STANDARD COMPLIANCE
16. "ANTI-KICKBACK" PROVISION
17. "FALSE INFORMATION" PROVISION
18. EMPLOYMENT OF APPRENTICES/TRAINEES
19. JOBSITE CONDITION
20. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED
21. PROVISIONS TO BE INCLUDED IN SUBCONTRACTS

1. GENERAL STATEMENT

For all City of San Antonio funded public works construction contracts, the City of San Antonio, in accordance with Texas Government Code Section 2258, requires that not less than the general prevailing wage rates (minimum hourly base pay and minimum hourly fringe benefit contribution) for work of similar character be paid to contractor and subcontractor employees. These wage rates are derived from the most current applicable federal prevailing wage rates as published by the United States Department of Labor, Dallas, Texas and authority of Ordinance Nos. 60110 and 71312 as amended and passed by the City Council of the City of San Antonio.

Any deviation from Wage and Labor Standard Provisions compliance shall be cause for City's withholding either periodic interim or final payment to the contractor until such deviations are properly corrected.

2. LABOR COMPLIANCE OFFICE RESPONSIBILITIES

The Labor Compliance Office, Capital Improvements Management Services Department, City of San Antonio, is primarily responsible for all Wage and Labor Standard Provisions investigation and enforcement and will monitor contractor/subcontractor practices to assure the Director of Capital Improvements Management Services Department that:

- a. Appropriate weekly compliance statements and payroll records are submitted to the City by the contractor/subcontractors and that such are reviewed for compliance with the Wage and Labor Standard Provisions.
- b. Apprentices/trainees working on the project are properly identified by the contractor/subcontractor on payroll records and documented as being included in programs currently sanctioned by appropriate federal or state regulatory agencies.
- c. Applicable Wage Determination Decisions, including any applicable modifications, and related statements must be posted at the work-site by the contractor and that proper job classification and commensurate minimum hourly base and fringe wage rates are paid.
- d. Employees are periodically interviewed (at random) to assurance of proper work classification and wage rates.
- e. The Labor Compliance Office will investigate all allegations that no person employed by contractor/subcontractor is induced against his will,

by any means, to give up any part of the compensation to which he is otherwise entitled.

f. That any and all periodic administrative directives to the Labor Compliance Office from the Director of Capital Improvements are being implemented. For purpose of these Wage and Labor Standard Provisions, the Director of Capital Improvements Management Services means the Director, his successor, or his designee.

3. CLAIMS & DISPUTES PERTAINING TO WAGE RATES

Claims and disputes not promptly and routinely settled by the contractor/subcontractor and employee pertaining to wage rates, or to job classifications of labor employed regarding the work covered by this contract, shall be reported by the employee in writing, within sixty (60) calendar days of employee's receipt of any allegedly incorrect classification, wage or benefit report, to the Labor Compliance Office, City of San Antonio for further investigation. Claims and disputes not reported by the employee to the City's Wage & Hour Office in writing within the sixty (60) calendar day period shall be deemed waived by the employee for the purposes of the City administering and enforcing the City's contract rights against the contractor on behalf of the employee. Waiver by the employee of this City intervention shall not constitute waiver by the City to independently pursue contractual rights it has against the contractor/subcontractor for breach of contract and other sanctions available to enforce the Wage and Labor Standard Provisions.

4. BREACH OF WAGE AND LABOR STANDARD PROVISIONS

The City of San Antonio reserves the right to terminate its contract for cause if the contractor/subcontractors shall for cause if the contractor/subcontractors shall knowingly and continuously breach, without timely restitution or cure, any of these governing Wage and Labor Standard Provisions. A knowing and unremedied proven violation of these Wage and Labor Standard Provisions may also be grounds for debarment of the contractor/subcontractor from future City of San Antonio contracts for lack of responsibility, as determined by the City of San Antonio. Recurrent violations, whether remedied or not, will be considered by the Director of Capital Improvements Management Services Department when assessing the responsibility history of a potential contractor/subcontractor prior to competitive award of future Project Management Office projects. The general remedies stated in this paragraph 4. above, are not exhaustive and not cumulative for the City reserves legal and contractual rights to other specific remedies outlined herein below and in other parts of this contract and as are allowed by applicable City of San Antonio ordinances, state and federal statutes.

5. EMPLOYMENT OF LABORERS/MECHANICS NOT LISTED IN WAGE DETERMINATION DECISION

In the event that a contractor/subcontractor discovers that construction of a particular work element requires a certain employee classification and skill that is not listed in the wage determinations decision the original contract documents, contractor/subcontractors will make prompt inquiry (before bidding, if possible) to the Labor Compliance Office identifying that class of laborer/mechanics not listed in the wage determination decision who are intended to be employed, or who are being employed, under the contract. Using his best judgement and information resources available to him at the time, and any similar prior decisions, the Director of Capital Improvements Management Services Department, City of San Antonio shall classify said laborers/mechanics by issuing a special local wage determination decision to the contractor/subcontractor, which shall be enforced by the Labor Compliance Office.

6. MINIMUM WAGE

All laborers/mechanics employed to construct the work governed by this contract shall be paid not less than weekly the full amount of wages due (minimum hourly base pay and minimum hourly fringe benefit contribution for all hours worked, including overtime) for the immediately preceding pay period computed at wage and fringe rates not less than those contained in the wage determination decision included in this contract. Only payroll deductions as are mandated by state or federal law and those legal deductions previously approved in writing by the employee, or as are otherwise permitted by state or federal law, may be withheld by the contractor/subcontractor.

Should the contractor/ subcontractor subscribe to fringe benefit programs for employees, such programs shall be fully approved by the City in adopting a previous U.S. Department of Labor (DOL) decision on such fringe benefit programs or by applying DOL criteria in rendering a local decision on the adequacy of the fringe benefit programs. The approved programs shall be in place at the time of City contract execution and provisions thereof disclosed to the Labor Compliance Office, City of San Antonio, for legal review prior to project commencement.

Regular contractor/subcontractor contributions made to, or costs incurred for, approved fringe benefit plans, funds or other benefit programs that cover periods of time greater than the one week payroll periods of time period (e.g. monthly or quarterly, etc.) shall be prorated by the contractor/subcontractor on weekly payroll records to reflect the equivalent value of the hourly and weekly summary of fringe benefits per employee.

7. OVERTIME COMPENSATION NON-FEDERALLY FUNDED PROJECTS

No contractor/subcontractor contracting for any part of the City of San Antonio funded contract work (except for worksite related security guard services) which may require or involve the employment of laborers/ mechanics shall require or permit any laborer/mechanic in any seven (7) calendar day work period in which he or she is employed on such work to work in excess of 40 hours in such work period unless said laborer/ mechanic receives compensation at a rate not less than one and one-half times the basic hourly rate of pay for all hours worked in excess of 40 hours in a seven (7) calendar day work period. Fringe benefits must be paid for straight time and overtime; however, fringe benefits are not included when computing the overtime rate.

8. PAYMENT OF CASH EQUIVALENT FRINGE BENEFITS

The contractor/subcontractor is allowed to pay a minimum hourly cash equivalent of minimum hourly fringe benefits listed in the wage determination decision in lieu of the contribution of benefits to a permissible fringe benefit plan for all hours worked including overtime as described in paragraph 6 above. An employee is not allowed to receive less than the minimum hourly basic rate of pay specified in the wage determination decision.

9. WORK CONDUCTED ON HOLIDAYS-NON-FEDERALLY FUNDED PROJECTS

If a laborer/mechanic is employed in the normal course and scope of his or her work on the jobsite on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, and Martin Luther King, Jr. Day, or the calendar days observed as such in any given year, work performed shall be paid for at no less than one and one half (1 1/2) times the regular minimum hourly base pay regardless of the total number of the laborer/mechanic has accumulated during the pay period.

10. UNDERPAYMENT OF WAGES OR SALARIES

- a. When a "full investigation" (as called for in and as construed under Texas Government Code Section 2258, establishes underpayment of wages by contractor/subcontractor to its laborers/mechanics employed upon the work covered by its contract with the City of San Antonio, the City shall withhold an amount from the contractor, out of any payments (Interim progress and/or final) due the contractor, the City of San Antonio may consider necessary to secure ultimate payment by the appropriate party to such laborers/mechanics, of full wages plus possible penalty (see b. below). The amount withheld, excluding any possible penalty to be retained by City, may be disbursed at an appropriate time after "full investigation" by the City of San Antonio, for and on behalf of the contractor/subcontractor (as may be appropriate), to the respective laborers/mechanics to whom the same is due or on their behalf to fringe benefit plans,

funds or programs for any type of minimum fringe benefits prescribed in the applicable wage determination decision.

- b. Texas Government Code Section 2258, states that the contractor shall forfeit as a penalty to the City of San Antonio the sum of sixty dollars (\$60.00) for each calendar day, or portion thereof, for each laborer, workman, or mechanic, who is paid less than the said stipulated rate for any work done under this contract, whether by the contractor himself or by any subcontractor working under him. Pursuant to and supplemental to this statutory authority, the City of San Antonio and the contractor/subcontractor contractually acknowledge and agree that said sixty dollar (\$60.00) statutory penalty shall be construed by and between the City of San Antonio and the contractor/subcontractor as liquidated damages and will apply to any violations of paragraphs 6, 7, or 9 herein, resulting from contractor/subcontractor underpayment violations.
- c. If unpaid or underpaid workers cannot be located by the Contractor of the City after diligent efforts to accomplish same, the contractor report the wages as "unclaimed property" in accordance to Texas State law.

The City of San Antonio requires that the prime contractor send to the Labor Compliance Office a copy of the supporting documentation for the unclaimed property submitted to the State.

11. DISPLAYING WAGE DETERMINATION DECISIONS/AND NOTICE TO LABORERS/MECHANICS STATEMENT

The applicable wage determination decision as described in the "General Statement" (and as specifically included in each project contract), outlining the various worker classifications and mandatory minimum wages and minimum hourly fringe benefit deductions, if any, of laborers/mechanics employed and to be employed upon the work covered by this contract, shall be displayed by the contractor/ subcontractor at the site of work in a conspicuous and prominent public place readily and routinely accessible to workmen for the duration of the project. In addition, the contractor/subcontractor agrees with the contents of the following statement, and shall display same, in English and Spanish, near the display of the wage determination decision:

NOTICE TO LABORERS/MECHANICS

Both the City of San Antonio and the contractor/subcontractor agree that you must be compensated with not less than the minimum hourly base pay and minimum hourly fringe benefit contribution in accordance with the wage rates publicly posted at this jobsite and as are applicable to the classification of work you perform.

Additionally, you must be paid not less than one and one-half times your basic hourly rate of pay for any hours worked over 40

in any seven (7) calendar day work period, and for any work conducted on the following holidays: New Year's Day, Memorial Day, Fourth of July; Labor Day, Thanksgiving Day, Christmas Day, and Martin Luther King Day or the calendar days observed as such in any given year.

Apprentice and trainee hourly wage rates and ratios apply only to apprentices and trainees recognized under approved Federal, or State, apprenticeship training program registered with the Bureau of Apprenticeship and Training, U.S. Dept. of Labor.

If you believe that your employer is not paying the posted minimum wage for the type of work you do, you must make direct inquiry to the employer and inquire in writing within sixty (60) calendar days of your receipt of any allegedly incorrect wage or benefit check or report, to the City of San Antonio Labor Compliance Office, Capital Improvements Management Services Department, P.O. Box 839966, San Antonio, Texas 78283-3966. It is mandatory that the worker promptly file written inquiry of any allegedly incorrect wage or benefit checks or reports with the City of San Antonio, Labor Compliance Office within the sixty (60) calendar day period so that they do not waive your potential right of recovery under the provisions of the City of San Antonio Project Management Office contract that governs this project.

Both the City of San Antonio and the contractor/subcontractor agree that no laborer/mechanic who files a complaint or inquiry concerning alleged underpayment of wages or benefits shall be discharged by the employer or in any other manner be discriminated against by the employer for filing such complaint or inquiry.

12. PAYROLLS & BASIC PAYROLL RECORDS

- a. The contractor and each subcontractor shall prepare payroll reports in accordance with the "General Guidelines" instructions furnished by the Labor Compliance Office of the City of San Antonio such payroll submittals shall contain the name and address of each such employee, his correct labor classification, rate of pay, daily and weekly number of hours worked, any deductions made, and actual basic hourly and fringe benefits paid. The contractor shall submit payroll records each week, and no later than seven (7) working days following completion of the workweek being processed, to the Labor Compliance Office, City of San Antonio. These payroll records shall include certified copies of all payrolls of the contractor and of his subcontractors, it being understood that the contractor shall be responsible for the submission and general mathematical accuracy of payrolls from all his subcontractors. Each such payroll submittal shall be on forms deemed satisfactory to the City's Labor Compliance Office and shall contain a "Weekly Statement of Compliance", as called for by the contract documents. Such payrolls will be forwarded to Capital Improvements Management Services,

Labor Compliance Office, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283-3966.

- b. This contract is subject to contract compliance tracking, and the prime contractor and any subcontractors are required to provide any noted and/or requested contract compliance-related data electronically in the Labor Compliance Electronic Certified Payrolls System. The prime contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the City of San Antonio Labor Compliance Electronic Certified Payrolls System on a regular basis to manage contact information and contract records. The prime contractor is responsible for ensuring all subcontractors have completed all requested items and that their contact information is accurate and up-to-date. The City of San Antonio Labor Compliance Office may require additional information related to the contract to be provided electronically through the system at any time before, during, or after contract award.
- c. Information related to contractor access of the system will be provided to a designated point of contact with each contractor upon award of the contract.
- d. Copies of payroll submittals and basic supporting payroll records of the contractor/subcontractors accounting for all laborers/mechanics employed under the work covered by this contract shall be maintained during the course of the work and preserved for a period of three (3) years after completion of the project. The contractors/subcontractors shall maintain records which demonstrate: any contractor commitment to provide fringe benefits to employees as may be mandated by the applicable wage determination decision, that the plan or program is adjudged financially responsible by the appropriate approving authority, (i.e. U. S. Department of Labor, U.S. Department of Treasury, etc.), and that the provisions, policies, certificates, and description of benefits of the plan or program as may be periodically amended, have been clearly communicated in a timely manner and in writing, to the laborers/mechanics affected prior to their performing work on the project.
- e. The contractor/subcontractor shall make the above records available for inspection, copying, or transcribing by authorized representatives of the City of San Antonio at reasonable times and locations forces of monitoring compliance with this contract.
- f. All certified payrolls submitted to the Labor Compliance Office are deemed true and accurate. If upon review of the certified payrolls, wage underpayment violations are identified and noted, restitution will be calculated and penalties will be issued to the prime contractor of the project. In order to refute a wage violation, the contractor/subcontractor must provide supporting

documentation to the Labor Compliance Office for review and consideration.

13. LABOR DISPUTES

The contractor/subcontractor shall immediately notify the Project Management Office or designated representative of any actual or impending contractor/subcontractor labor dispute which may affect, or is affecting, the schedule's of the contractor's, or any other contractor's/subcontractor's work. In addition, the contractor/subcontractor shall consider all appropriate measures to eliminate or minimize the effect of such labor disputes on the schedule, including but not limited to such measures as: promptly seeking injunctive relief if appropriate; seeking appropriate legal or equitable actions or remedies; taking such measures as establishing a reserved gate, as appropriate; if reasonably feasible, seeking other of supply or service; and any other measures that may be appropriately utilized to mitigate or eliminate the jobsite and scheduling effects of the labor dispute.

14. COMPLAINTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES

No laborers/mechanics to whom the wage, salary, or other labor standard provisions of this contract are applicable shall be or in any other manner discriminated against by the contractor/subcontractors because such employee has filed any formal inquiry or complaint or instituted, or caused to be instituted, any legal or equitable proceeding or has testified, or is about to testify, in any such preceding under or relating to the wage and labor standards applicable under this contract.

15. EMPLOYEE INTERVIEWS TO ASSURE WAGE AND LABOR STANDARD COMPLIANCE

Contractor/subcontractors shall allow expeditious jobsite entry of City of San Antonio Labor Compliance representatives displaying and presenting proper identification credentials to the jobsite superintendent or his representative. While on the jobsite, the Labor Compliance representatives shall observe all jobsite rules and regulations concerning safety, internal security and fire prevention. Contractor/subcontractors shall allow project employees to be separately and confidentially interviewed at random for a reasonable duration by the Labor Compliance representatives to facilitate compliance determinations regarding adherence by the contractor/subcontractor to these Wage and Labor Standard Provisions.

16. "ANTI-KICKBACK" PROVISION

No person employed in the construction or repair of any City of San Antonio public work shall be induced, by any, to give up to any contractor/subcontractor or public official or employee any

part of the hourly and/or fringe benefit compensation to which he is otherwise entitled.

17. "FALSE OR DECEPTIVE INFORMATION PROVISION"

Any person employed by the contractor/subcontractor in the construction or repair of any City of San Antonio public work, who is proven to have knowingly and willfully falsified, concealed or covered up by any deceptive trick, scheme, or device a material fact, or made any false, fictitious or fraudulent statement or representation, or made or used any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be permanently removed from the jobsite by contractor/subcontractor. The City of San Antonio reserves the right to terminate its contract for cause as a result of serious and uncured violations of this provision.

18. EMPLOYMENT OF APPRENTICES/TRAINEES

a. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship & Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship & Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor/subcontractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in (b) below or is not registered or otherwise employed as stated above, shall be paid the wage rate for the classification of work he actually performs. The contractor/subcontractor is required to furnish to the Labor Compliance Office of the City of San Antonio, a copy of the certification, along with the payroll record that the employee is first listed on. The wage rate paid apprentices shall be not less than the specified rate in the registered program for the apprentice's level of progress expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination decision.

b. Trainees will be permitted to work at less than the predetermined rate for the work performed when they are employed pursuant to an individually registered program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the

Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress. Any employee listed on the payroll at a trainee wage rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the wage rate determined by the classification of work he actually performs. The contractor/subcontractor is required to furnish a copy of the trainee program certification, registration of employee-trainees, ratios and wage rates prescribed in the program, along with the payroll record that the employee is first listed on, to the Labor Compliance Office of the City of San Antonio. In the event the Employment and Training Administration withdraws approval of a training program, the contractor/subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved by the Employment and Training Administration.

c. Paragraphs above shall not operate to exclude training programs approved by the OFCCP, United States Department of Labor and as adopted by the Associated General Contractors (AGC) of Texas, Highway, Heavy, Utilities and Industrial Branch. Guidelines for these training programs shall be the same as those established for federally funded projects. This subparagraph shall not apply to those portions of a project deemed to be building construction.

d. The Ratio to Apprentice to Journeyman for this project shall be the same as the ratio permitted under the plan approved by the Employment and Training, Administration, Bureau of Apprenticeship and Training, U.S. Department of Labor, by Craft. A copy of the allowable Ratios is included with the applicable Wage Determination Decision in the specifications for this project.

When "full investigation" as called for in, and as construed under, Texas Government Code Section 2258, evidences a violation of the Apprentice or Trainee to Journeyman ratios effective for contractor/subcontractor employees working on this contract, the City of San Antonio, in addition to such other rights as may be afforded it under state and/or federal law and/or other sections of its contract, shall withhold from the contractor, out of any payments (interim progress and/or final) due the contractor, the liquidated damages sum of seventy-five dollars (\$75.00) for each calendar day, or portion thereof, for each certified Apprentice or Trainee employee assigned to a Journeyman that exceeds the maximum allowable Apprentice/ Trainee to Journeyman ratio stipulated for any work done under this contract, whether by the contractor himself or by any subcontractor working under him.

19. JOBSITE CONDITIONS

Contractors/subcontractors shall not allow any person employed for the project to work in surroundings or under construction conditions which are unsanitary, unhealthy, hazardous, or

dangerous as governed by industry standards and appropriate local, state and federal statutes, ordinances, and regulatory guidelines.

20. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

- a. The contractor/subcontractor shall knowingly only employ persons of appropriate ages commensurate with the degree of required skill, strength, maturity and judgment associated with the activity to be engaged in, but not less than the age of fourteen (14) years, as governed by the Child Labor Law found at Chapter 51 of the Texas Labor Code "Child Labor" Texas Department of Labor and Standards rulings and interpretations associated with that statute. It is hereby noted that in some circumstances generally governed by this section, a federal statute (see: Fair Labor Standards Act, 29 USCS Section 212; Volume 6A of the Bureau of National Affairs Wage Hour Manual at Paragraph 96:1; "Child Labor Requirements in Nonagricultural Occupations" WH Publication 1330, July 1978 as may be amended), could pre-empt the Texas Statute and therefore be the controlling' law on this subject. The contractor/subcontractor should seek clarification from state and federal agencies and legal counsel when hiring adolescent employees for particular job classifications.
- b. Prohibited persons not to be employed are also those persons who, at the time of employment for this contract, are serving sentence in a penal or correctional institution except that prior approval by the Director of Capital Improvements Management Services is required to employ any person participating in a supervised work release or furlough program that is sanctioned by appropriate state or federal correctional agencies.
- c. The Contractor/subcontractors shall be responsible for compliance with the provisions of the "Immigration Reform and Control Act of 1986" Public Law 99-603, and any related State enabling or implementing statutes, especially as they in combination apply to the unlawful employment of aliens and unfair immigration-related employment practices affecting this contract.

21. PROVISIONS TO BE INCLUDED IN SUBCONTRACTS

The contractor shall cause these Wage and Labor Standard Provisions, or reasonably similar contextual adaptations hereof, and any other appropriate state and federal labor provisions, to be inserted in all subcontracts relative to the work to bind subcontractors to the same Wage and Labor Standards as contained in these terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors or sub-subcontractors and to give the contractor similar, if not greater, general contractual authority over the subcontractor or subcontractors as the City of San Antonio may exercise over the contractor.

22. CONTRACTOR'S RESPONSIBILITY

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The City of San Antonio will hold the prime contractor responsible for ensuring that his subcontractors comply with the Wage and Labor Standards Provisions.

ATTACHMENT I

Contractor shall comply with the Wage and Labor Standard Provisions attached hereto and incorporated herein for all purposes as Attachment No. 1.

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Statement:

“Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with the City, shall file a completed conflict of interest questionnaire with the City Clerk not later than the 7th business day after the date that the person: (1) begins contract discussions or negotiations with the City; or (2) submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City. The conflict of interest questionnaire form is available from the Texas Ethics Commission at www.ethics.state.tx.us <<http://www.ethics.state.tx.us>>. Completed conflict of interest questionnaires may be mailed or delivered by hand to the Office of the City Clerk. If mailing a completed conflict of interest questionnaire, mail to: Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. If delivering a completed conflict of interest questionnaire, deliver to: Office of the City Clerk, City Hall, 2nd floor, 100 Military Plaza, San Antonio, TX 78205.”

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IMPORTANT MAILING INSTRUCTIONS:

MAIL TO: CITY OF SAN ANTONIO
PURCHASING AND GENERAL SERVICES DEPARTMENT
P.O. BOX 839966
SAN ANTONIO, TX 78283-3966

PHYSICAL ADDRESS: PURCHASING AND GENERAL SERVICES DEPARTMENT
CITY HALL ANNEX
131 W. NUEVA
SAN ANTONIO, TEXAS 78204

FAX QUOTES TO: ATTENTION: WILLIAM FLINT
PROCUREMENT DIVISION
FAX NO. 210-207-9761

REMARKS:

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