

AN ORDINANCE **2016-12-01-0918**

AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH MIKE PIETSCH, P.E. CONSULTING SERVICES, INC. TO PROVIDE CONSULTING SERVICES TO THE SAN ANTONIO FIRE DEPARTMENT IN PREPARATION OF AN EVALUATION BY THE INSURANCE SERVICES OFFICE FOR THE AMOUNT OF \$63,500.00.

WHEREAS, the San Antonio Fire Department wishes to engage a consultant to document the answers to the questions presented in the Insurance Services Office (ISO) public protection classification pre-survey packet and to represent the City of San Antonio during the ISO field survey; and

WHEREAS, Mike Pietsch, P.E. Consulting Services, Inc. has agreed to provide said services for a total fee of \$63,500.00; **NOW THEREFORE:**

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

SECTION 1. The City Manager and her designated representative are hereby authorized to execute a professional services contract with Mike Pietsch, P.E. Consulting Services, Inc. to provide consulting services in connection with the Insurance Services Office public protection classification survey. A copy of said contract is attached hereto as **Exhibit I**, and the terms and conditions contained in said contract are hereby approved.

SECTION 2. Funding in the amount of \$63,500.00 for this Ordinance is available in Fund 11001000, Cost Center 2015100001, and General Ledger 5201040, as part of the Fiscal Year 2017 budget. Payment not to exceed the budgeted amount is authorized to Mike Pietsch, P.E. Consulting Services, Inc. and should be encumbered with a purchase order.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts, as necessary to carry out the purpose of this Ordinance.

SECTION 4. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 1st day of December, 2016.



M A Y O R

Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:



Leticia M. Vacek, City Clerk



City Attorney

Agenda Item:	20 (in consent vote: 5, 7, 8, 9, 11A, 11B, 13, 14, 16, 18, 19, 20, 21, 23, 24, 25)						
Date:	12/01/2016						
Time:	09:23:46 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a professional services contract with Mike Pietsch, P.E. Consulting Services, Inc. to provide consulting services to the San Antonio Fire Department in preparation of an evaluation by the Insurance Services Office for the amount of \$63,500.00. [Erik J. Walsh, Deputy City Manager; Charles N. Hood, Fire Chief]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8	x					
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

**PROFESSIONAL SERVICES CONTRACT
BETWEEN
CITY OF SAN ANTONIO
AND
MIKE PIETSCH, P.E. CONSULTING SERVICES, INC.**

This contract is made and entered into by and between the City of San Antonio (CITY) and Mike Pietsch, P.E. Consulting Services, Inc. (CONSULTANT).

WHEREAS, CITY wishes to engage CONSULTANT to document the answers to the questions presented in the Insurance Services Office (ISO) public protection classification (PPC) pre-survey packet; and

WHEREAS, CITY wishes to engage CONSULTANT to represent CITY during the ISO field survey; and

WHEREAS, CONSULTANT is ready, willing, and able to provide said services; **NOW THEREFORE**:

I. TERM

- 1.1 This contract shall commence upon execution and shall terminate upon satisfaction of the respective obligations of the parties, unless terminated earlier pursuant to the provisions hereof.
- 1.2 CONSULTANT and CITY recognize that the continuation of any contract after the close of any given fiscal year of CITY, which fiscal year ends on September 30, shall be subject to appropriation of funds for the contract. Should funds not be appropriated, this contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

II. SCOPE OF SERVICES

A. General

- 2A.1 All work performed by CONSULTANT pursuant to this contract must be performed to the satisfaction of CITY. The determination made by CITY shall be final, binding, and conclusive on all parties hereto. CITY shall be under no obligation to pay for any work performed by CONSULTANT which is not satisfactory to CITY. CITY may terminate this contract, in accordance with Article VII, in whole or in part, should CONSULTANT's work not be satisfactory to CITY; however, CITY has no obligation to terminate in such a case and may withhold payment for any unsatisfactory work, even if CITY elects not to terminate.

B. PPC Pre-Survey Packet Documentation

- 2B.1 CONSULTANT shall document the answers to the questions presented in the ISO PPC pre-survey packet. The questions will cover the following areas: (1) the needed fire flow report; (2) the Texas exception; (3) the fire department; (4) the fire service communications; (5) the water department; and (6) the community risk reduction.
- 2B.2 In doing so, CONSULTANT shall meet with appropriate CITY personnel.
- 2B.3 CONSULTANT agrees that, in completing this work, CONSULTANT will make one site visit.
- 2B.4 Said work shall be conducted the week of January 9, 2017, or at another time mutually agreed to by the parties.

C. ISO FIELD SURVEY REPRESENTATION

- 2C.1 CONSULTANT shall represent CITY during the ISO field survey. The areas covered by the field survey are as follows: (1) the needed fire flow report; (2) the Texas exception; (3) the fire department; (4) the fire service communications; (5) the water department; and (6) the community risk reduction.
- 2C.2 Said work shall be conducted the week of February 6, 2017, or at another time mutually agreed to by the parties.

III. PAYMENT AND BILLING

- 3.1 Upon completion of the work provided for in Subarticle 2B of this contract, CITY shall pay CONSULTANT \$56,000.00 in compensation.
- 3.2 Upon completion of the work provided for in Subarticle 2C of this contract, CITY shall pay CONSULTANT \$7,500.00 in compensation.
- 3.3 Upon completion of the work provided for in each of the aforementioned subarticles, CONSULTANT shall submit an invoice to CITY for services provided to CITY pursuant to this contract.
- 3.4 Upon receipt of and approval by CITY of CONSULTANT's invoice, CITY agrees to pay CONSULTANT the amount invoiced, so long as the amount invoiced has been invoiced pursuant to the provisions of this contract.
- 3.5 CITY shall not be obligated or liable under this contract to any party other than CONSULTANT for payment of any monies or provision of any goods or services.

- 3.6 CONSULTANT shall be responsible for all expenses incurred by CONSULTANT in completing the work required by this contract.

IV. LICENSES AND CERTIFICATIONS

- 4.1 All licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials and all applicable state and federal laws and local ordinances must be complied with by CONSULTANT. Failure to comply with this requirement shall be treated as a default and will result in termination of this contract.

V. OWNERSHIP OF RECORDS

- 5.1 The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law, including an ordinance, or in the transaction of official business.
- 5.2 CONSULTANT acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J of Chapter 441 of the Texas Government Code. CONSULTANT agrees that no such local government record produced by or on the behalf of CONSULTANT pursuant to this contract shall be the subject of any copyright or proprietary claim by CONSULTANT. CONSULTANT acknowledges and agrees that all local government records, as described herein, produced in the course of the work contemplated by this contract belong to and are the property of CITY.
- 5.3 CONSULTANT shall not, under any circumstances, release any records created during the course of the performance of the work provided for by this contract to any entity without CITY's written permission, unless required to do so by a court of competent jurisdiction.
- 5.4 CONSULTANT shall comply with all applicable federal, state, and local laws, rules, and regulations governing document ownership, access, and retention.

VI. RECORDS

- 6.1 CONSULTANT must maintain all documents and records pertaining to the services rendered through this agreement and make them available to the CITY at the respective offices of the parties during the record retention period.

- 6.2 CONSULTANT shall retain any and all documents produced as a result of its services for four years from the date of termination of the agreement, or any extension thereof, or, in the event that litigation is initiated in connection with the services provided by CONSULTANT pursuant to this agreement, four years from the date of resolution of said litigation.
- 6.3 CONSULTANT shall notify the CITY immediately in the event CONSULTANT receives any requests for information from a third party which pertain to the documentation and records referenced herein. To the extent permitted by law, the CITY will process all such requests.

VII. TERMINATION

- 7.1 For purposes of this contract, "termination" of this contract shall mean termination by expiration of the contract term as set out in Article I or earlier termination pursuant to any of the provisions of this contract.
- 7.2 CITY may terminate this contract, in whole or in part, at any time, for any reason, upon written notice to CONSULTANT. Said notice shall specify the date of termination.
- 7.3 Within thirty days of the effective date of termination (unless an extension is authorized in writing by CITY), CONSULTANT shall submit to CITY its claim in detail for the monies owed by CITY for services performed under this contract. CITY shall then pay all monies owed to CONSULTANT.
- 7.4 In no event shall CITY's action of terminating this contract be deemed an election of CITY's remedies, nor shall such termination limit, in any way, at law or at equity, CITY's right to seek damages from or otherwise pursue CONSULTANT for any default hereunder or other action.

VIII. NON-WAIVER

- 8.1 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. In fact, no waiver, change, modification, or discharge by either party hereto of any provision of this contract shall be deemed to have been made or shall be effective, unless expressed in writing and signed by the party to be charged. No act or omission by a party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

IX. INDEPENDENT CONTRACTOR

- 9.1 CONSULTANT covenants and agrees that CONSULTANT is an independent contractor and not an officer, agent, servant, or employee of CITY; that CONSULTANT shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors, and consultants; that the doctrine of respondent superior shall not apply as between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors, and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners, or joint venturers between CITY and CONSULTANT. The parties hereto understand and agree that the 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 CONSULTANT under this agreement and that the CONSULTANT has no authority to bind the CITY.
- 9.2 Regardless of where the work shall be performed, what supplies or resources are provided by CITY, what instruction or direction is provided by CITY, CONSULTANT and those persons designated by it to provide services shall not be deemed employees of CITY and shall not be entitled to wages or benefits from CITY, other than the compensation provided herein.

X. SUBCONTRACTING AND ASSIGNMENT

- 10.1 Any other clause of this contract to the contrary notwithstanding, none of the work or services covered by this contract shall be subcontracted without the prior written approval of CITY. Any work or services approved for subcontracting hereunder, however, shall be subcontracted only by written contract or agreement and, unless specific waiver is granted in writing by 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 CONSULTANT.
- 10.2 Despite CITY approval of a subcontract, CITY shall, in no event, be obligated to any third party, including any subcontractor of CONSULTANT, for performance of work or services, nor shall CITY funds ever be used for payment of work or services performed prior to the date of contract execution or after the termination of this contract.
- 10.3 Except as otherwise stated herein, CONSULTANT may 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 by any other means, without the prior written consent of CITY. As a condition of such consent, if such consent is granted, CONSULTANT shall remain liable for completion of the services outlined in this contract in the event of default by the successor, assignee, transferee, or subcontractor.
- 10.4 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

CONSULTANT assign, transfer, convey, delegate, or otherwise dispose of any part or all of its right, title, or interest in this contract, CITY may, at its option, cancel this contract and all rights, titles, and interest of CONSULTANT shall thereupon cease and terminate, notwithstanding any other remedy available to CITY under this contract. The violation of this provision by CONSULTANT shall in no event release CONSULTANT from any obligation under the terms of this contract, nor shall it relieve or release CONSULTANT from the payment of any damages to CITY, which CITY sustains as a result of such violation.

XI. CONFLICT OF INTEREST

- 11.1 CONSULTANT acknowledges that it is informed that the Charter of the City of San Antonio and CITY's Ethics Code prohibit a CITY officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with CITY or any CITY agency such as CITY-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with CITY or in the sale to CITY of land, materials, supplies, or services, if any of the following individuals or entities is a party to the contract or sale: a CITY officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten percent or more of the voting stock or shares of the business entity, or ten percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.
- 11.2 Pursuant to the subsection above, CONSULTANT warrants and certifies, and this contract is made in reliance thereon, that it, its officers, employees, and agents are neither officers nor employees of CITY. CONSULTANT further warrants and certifies that it has tendered to CITY a discretionary contracts disclosure statement in compliance with CITY's Ethics Code.

XII. INDEMNIFICATION

- 12.1 **CONSULTANT 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 CONSULTANT'S ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF CONSULTANT, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF CONSULTANT, 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 CONSULTANT 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 CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 12.2 THE PROVISIONS OF THIS INDEMNITY ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. CONSULTANT SHALL ADVISE THE CITY IN WRITING WITHIN TWENTY-FOUR HOURS OF ANY CLAIM OR DEMAND AGAINST CITY OR CONSULTANT KNOWN TO CONSULTANT RELATED TO OR ARISING OUT OF CONSULTANT'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT CONSULTANT'S COST. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CONSULTANT OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

XIII. INSURANCE

- 13.1 Prior to the commencement of any work under this Agreement, CONSULTANT shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the CITY's Fire Department, which shall be clearly labeled "Mike Pietsch, P.E. Consulting Services, Inc." in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier, and list the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the CITY. The CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the CITY's Fire Department. No officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement.
- 13.2 The CITY reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof 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 this Agreement. In no instance will CITY allow modification whereby CITY may incur increased risk.

- 13.3 A CONSULTANT's financial integrity is of interest to the CITY; therefore, subject to CONSULTANT's right to maintain reasonable deductibles in such amounts as are approved by the CITY, CONSULTANT shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at CONSULTANT's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized 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:

TYPES	AMOUNTS
Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury	For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
Personal Vehicle Liability Insurance	For Bodily Injury (per person), \$100,000; For Bodily Injury (per accident) \$300,000; For Property Damage \$100,000.
Professional Liability (Claims-made basis) To be maintained and in effect for no less than two years subsequent to the completion of the professional service.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services.

- 13.4 CONSULTANT agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of CONSULTANT herein, and provide a certificate of insurance and endorsement that names the CONSULTANT and the CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of CONSULTANT. 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.

- 13.5 As they apply to the limits required by the CITY, the CITY shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. CONSULTANT shall be required to comply with any such requests and shall submit requested documents to CITY at the address provided below within 10 days. CONSULTANT shall pay any costs incurred resulting from provision of said documents.

Charles Hood
San Antonio Fire Department
P.O. Box 839966
San Antonio, Texas 78283

- 13.6 CONSULTANT agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- (a) name the CITY, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the CITY, with the exception of the workers' compensation and professional liability policies;
 - (b) 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;
 - (c) provide in workers' compensation, employers' liability, general liability, and automobile liability policies a waiver of subrogation in favor of the CITY; and
 - (d) provide advance written notice directly to CITY of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.
- 13.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, CONSULTANT shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CONSULTANT's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- 13.8 In addition to any other remedies the CITY may have upon CONSULTANT'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 CONSULTANT to stop work

hereunder, and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof.

- 13.9 Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractors' performance of the work covered under this Agreement.
- 13.10 It is agreed that CONSULTANT'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.
- 13.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the CITY shall be limited to insurance coverage provided..
- 13.12 CONSULTANT and any Subcontractors are responsible for all damage to their own equipment and/or property.

XIV. CHANGES AND AMENDMENTS

- 14.1 Except when the terms of this contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and CONSULTANT.
- 14.2 It is understood and agreed by the parties hereto that changes in local, state, and federal rules, regulations, or laws applicable hereto may occur during the term of this contract and that any such changes shall be automatically incorporated into this contract without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation, or law.

XV. ENTIRE AGREEMENT

- 15.1 This contract and its exhibits 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 hereof, and only executed by the parties.

XVI. SEVERABILITY

- 16.1 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.

XVII. NOTICES

- 17.1 For purposes of this contract, all official communications and notices between the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY

Charles Hood
San Antonio Fire Department
P.O. Box 839966
San Antonio, Texas 78283

CONSULTANT

Mike Pietsch
Mike Pietsch, P.E. Consulting Services, Inc.
3101 S. Country Club Road
Garland, Texas 75043

XVIII. LAW APPLICABLE

- 18.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.
- 18.2 VENUE AND JURISDICTION FOR ANY LEGAL ACTION OR PROCEEDING BROUGHT OR MAINTAINED, DIRECTLY OR INDIRECTLY, UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL LIE EXCLUSIVELY IN BEXAR COUNTY, TEXAS.

XIX. LEGAL AUTHORITY

- 19.1 The signer of this contract for CONSULTANT represents, warrants, assures, and guarantees that he has full legal authority to execute this contract on behalf of CONSULTANT and to bind CONSULTANT to all of the terms, conditions, provisions, and obligations herein contained.

XX. PARTIES BOUND

- 20.1 This contract shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, except as otherwise expressly provided for herein.

XXI. GENDER

21.1 Words of any gender used in this contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXII. CAPTIONS

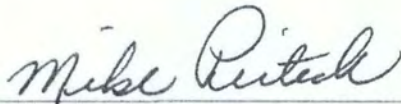
22.1 The captions contained in this contract are for convenience of reference only and in no way limit or enlarge the terms and/or conditions of this contract.

EXECUTED IN DUPLICATE ORIGINALS on _____, 2016.

CITY

CONSULTANT

Sheryl Sculley
City Manager



Mike Pietsch

Approved as to Form:

City Attorney